What remains
Photos from the last days of the war in Gaza in 2014, by Eduardo Soteras Jalil
What remains is a photo essay about the consequences of the last attack on the Gaza Strip in 2014. These images were taken by freelance documentary photographer Eduardo Soteras Jalil during the last days of the war and the first week of the ceasefire.
from the chair

Fatal dose to the welfare state?

The close of 2014 saw a number of changes for the Haldane Society. None more significant than Liz Davies, Kat Craig and Anna Morris all stepping down as chair and vice chairs. Liz had been in the post for eight years and Kat and Anna had been the vice chairs for the last six of those years. The contribution each of them has made to the Haldane Society is immeasurable.

Little has changed in the campaign to defend legal aid. Two months into 2015 and many of the proposals heralded by the Transforming Legal Aid consultation are now law. Criminal solicitors continue their High Court battle against the imposition of the disastrous dual contract scheme.

And, as though confirmation were required, the Public Accounts Committee concluded that the Government pushed through the 2012 cuts to civil legal aid based on ‘no evidence in many areas, and without making good use of the evidence that it did have in other areas’.

The Tories, in a near unprecedented piece of political legerdemain, have used the financial crisis to impose austerity on the nation. Presented as the only cure for the debt, its chief purpose is to administer a fatal dose to the welfare state of which legal aid is a part. We are all too used to hearing statements issued from the Ministry of Justice claiming that even after these cuts our legal aid system will remain one of the ‘most generous in the world’. Generous to whom we are never told. But the use of the adjective is instructive: loaded, as it is, with the insinuation that something is being provided which is more than is necessary or perhaps deserved. That is the Government’s assessment of those who rely on publicly funded legal services.

As Socialist Lawyer goes to press, the Government will be hosting its Global Law Summit (GLS). It is an event billed as marking the 800th anniversary of the Magna Carta and is ‘evidence that Britain continues to lead the way in promoting free enterprise… and the Rule of Law.’ A cursory glance at the brochure for the event confirms that the Magna Carta is but a fig leaf for the conference’s real purpose. It is an event to promote the interests of global capitalism and to showcase London as the place for the one per cent to do business and the legal forum of choice to arbitrate disputes. The ‘experts’ who will address various meetings include a managing director of the investment banking arm of Goldman Sachs; the chairman of BAE Systems; and the celebrated constitutional law expert, Boris Johnson. Shami Chakrabarti, the director of Liberty, is to be congratulated on deciding to withdraw from the event. Whereas the leaderships of the Bar Council, Law Society and the Criminal Bar Association are each to be deprecated for signing up in the first place and not now following her lead. At £1,750 for a ticket few, if any, of those they represent will attend.

Instead, those of our number who cannot allow this false reverence towards the rule of law to go unchallenged will have again gathered to protest at Old Palace Yard on the day the summit begins. In all likelihood the protests against the GLS will be the last legal aid demonstrations before the general election. In recent days the Labour party has said that it will reverse the dual contract model if it is realised and the party promises to review the next 8.75 per cent cut to criminal legal aid. This is hardly cause for encouragement but it is a sign that the message of the past two years is filtering through.

When the proposals were announced in April 2013, criminal lawyers in this country had never organised an effective strike in their history. Many doubted it could even be achieved. From the outset, the executive committee of the Haldane Society called for direct action as the only response to the Tories’ economic and ideological raid on the fourth pillar of the welfare state. Within a year there had been two successful days of action which galvanised criminal solicitors and barristers as never before. More significantly it forced the Justice Secretary to act. There is still time to defeat the last of the Government’s damaging reforms. The work to repair the vandalism inflicted on our legal aid service must begin at once.

Russell Fraser Chair of the Haldane Society of Socialist Lawyers
**Cuts across welfare bite: time to get organised**

The Manchester-based Access to Advice campaign together with Justice Alliance North organised a significant public meeting during the Labour Party conference in Manchester in September 2014 which saw an attendance of over 100 people.

The Shadow Justice Minister Andy Slaughter MP spoke alongside Denise McDowell, Director of the Greater Manchester Immigration Aid Unit and Cris McCurley, a leading family solicitor at Ben Hoare Bell in the North East.

Denise McDowell opened by stating that only that morning, 35 people had been queuing outside her workplace for advice at 7.30am, just one example of the reality of what is now happening as cuts across welfare provision translate.

Furthermore, while in 2012-2013 there were 870 not-for-profit providers with a public funding contract, the figures for 2013-2014 showed a contraction to just 95 providers.

Cris McCurley spoke powerfully of the crisis of funding in domestic violence cases stating that the suggestion by the Government that all victims of domestic violence would obtain legal aid was a ‘complete lie’. In fact, less than 1 per cent of family applications for exceptional case funding had been successful and women and children’s lives were at risk.

Andy Slaughter MP made reference to a range of examples that belied the assertion that various changes were about savings, but rather were indicative of the Government’s ideological assault upon the welfare state. Other matters highlighted included the introduction of fees in employment tribunals where figures indicate that there has been an 80 per cent fall in claims advanced by workers and employees. Family mediations had fallen and the general situations within the probation and prison services were extremely dire.

Contributions from the floor of the meeting included criticism that the Shadow Justice Minister had ruled out the full restoration of the cuts made, although he indicated that more specific detail of an incoming Labour Government’s proposals would emerge as the general election approaches.

The meeting also heard a range of suggestions regarding next steps to be taken in campaigning. Justice Alliance North and Access

**Rage as Ferguson cop is cleared**

Protests erupted across the US at the news that Darren Wilson, the white cop who shot 18 year old Michael Brown dead in Ferguson.

Justice for Michael Brown protesters in London in November 2015 showed solidarity with Ferguson, beginning at the US Embassy...
Deck stacked against victims

In December 2014, Alison Saunders, the Director of Public Prosecutions, vigorously defended the decision to prosecute Eleanor De Freitas.

The case began when De Freitas, a 23-year-old woman, reported an alleged rape to the police in January 2013. After investigating the incident and interviewing her and the alleged perpetrator, the police told her they could not proceed with the case as there was not a realistic chance of a successful conviction. The alleged perpetrator responded by pursuing a private prosecution against De Freitas for perverting the course of justice (PCJ), a prosecution which was later taken over by the Crown Prosecution Service (CPS). The trial was due to open on 7th April 2014, however, on 4th April 2014 De Freitas killed herself.

This tragic case brings to the fore once more the culture of injustice for rape complainants and the sexist bias that exists in our criminal justice system. Many groups, including Victim Support, Justice for Women and Inquest, have raised concerns about the CPS decision to prosecute De Freitas.

Rape allegations are infamous for rarely leading to a criminal trial in respect of the alleged rapist, let alone their conviction. Some argue that this is due to the intrinsic nature of the crime; that it is often an act which occurs in private with only the complainant and defendant as witnesses. With this in mind, having a system which supports rape complainants coming forwards is crucial. This case unfortunately illustrates yet more reasons why a rape complainant would be dissuaded from speaking out. Not only was the case dropped because of a lack of evidence (again, an issue with the nature of the crime), but the CPS have demonstrated their willingness to prosecute for PCJ in respect of rape allegations.

The CPS has a duty to take all circumstances into account before progressing with a prosecution. Considering the number of issues surrounding this case and the trivial gain achieved as a result of a successful prosecution of De Freitas, the question is raised as to why the CPS so adamantly believed that pursuing this case was in the public’s interest, rather than stopping the prosecution. As Saunders said, the case involved careful consideration because De Freitas had mental health problems and because it was the subject of a private prosecution without a full police investigation. This decision seems even more arbitrary considering the consistent refusal by the officers who investigated the original complaint to support prosecutors in the case against De Freitas for PCJ. Additionally, the CPS lawyers pushing the PCJ case never met or interviewed De Freitas about her allegation.

In particular, the argument Saunders advanced regarding evidence was concerning. She states, ‘The evidence was strong and having considered it [...] it is clear there was sufficient evidence for a realistic prospect of conviction for perverting the course of justice.’ This evidence included text messages and CCTV footage (taken in a shop of the two parties around the same time as the allegation), which ‘directly contradicted the account given to the police’. This plays into the damaging misconceptions surrounding rape that already exist in society; that rape does not occur in a relationship. If we continue to confuse how rape can occur in a relationship, then we are preventing a clear understanding of consent. Consequently, we are also preventing successful rape convictions.

Saunders further explains that, ‘...where there is sufficient evidence to show that a false claim may have been made, the potential harm to those affected must be very carefully considered and an appropriate decision made.’ Unfortunately here, the harm that was suffered by the man has been assessed as more important. The man was not named and he did not face trial. He did not receive a criminal conviction. What he lost was minimal compared to the broader problems with yet another allegation of rape going untried and another rape complainant pursued for allegedly lying. This denial, once more, of justice for a rape complainant, and the bias in favour of the man, directly affected a vulnerable young woman and led to her death. Eleanor De Freitas has both become yet another woman let down by the criminal justice system and another victim of a patriarchal justice system.

Emily Elliot & Natalie Csengeri

@ If you are interested in learning about or discussing feminism and the law, contact the Haldane Feminist Lawyers at feminism@haldane.org, add us on Facebook, or get involved in the IADL and Haldane Society sponsored International Women’s Conference in London on the 28th and 29th December 2015 entitled: ‘Women Fighting on All Fronts! Organising Communities and Alternative Movement Building’.
Fracking – the protests and the court cases

When it comes to policing the anti-fracking protests the police seem to have taken their lead from the fracking process itself. They apply immense pressure to the communities and activists who stand up to fracking, trying to blast them apart.

On 3rd December 2014, Melanie Strickland, an activist with Reclaim the Power and also a barrister who represented many of the anti-fracking activists, spoke to the Haldane Society about the legal and political issues surrounding fracking. They made it clear that fracking is not just a threat to the environment, but also a test of whether communities have the right to say ‘no’ to ecological catastrophe. The Government and the pro-fracking business lobby are desperate to overcome community opposition, which perhaps explains the bizarre and heavy-handed tactics that the police have used at anti-fracking protests.

Melanie Strickland explained the fracking process and gave an overview of the major protests so far, including the two large camps at Balcombe in Sussex and Barton Moss near Manchester. She made it very clear that the Government’s proposed ‘solution’ of heavy regulation cannot work as fracking is inherently harmful. She gave the examples of the two minor earthquakes that have occurred at the UK’s only fracking site and reports that the tap water near some sites can be set on fire owing to high methane levels. The Government, she explained, does not have a climate change agenda and activists must stand up to fossil fuel use and ‘extreme energy’.

Melanie Strickland argued that this is an issue of democracy and an issue for socialists. The ‘arch-capitalists’ are fully behind fracking and communities and governance are being undermined in order to make fracking profitable. Community resistance is the only reason that fracking is not here already and – particularly in light of the police’s harsh response to anti-fracking groups – she called for solidarity and support.

Tom Wainwright explained that the £4 million policing operation at Balcombe as a test run for the police. He gave examples of arbitrary arrests, impossible regulations and spurious controls. He explained that the conviction rates of anti-fracking protestors were very low in proportion to the number of arrests, and that the entire process seemed to be aimed at limiting the right to protest effectively.

Tom Wainwright explained that the lawyer’s role is to translate the protesters’ good sense of right and wrong into arguments that expose police tactics and ridiculous prosecutions in court.

Tom Wainwright set out how the police had made a number of errors in their heavy-handed policing of anti-fracking protests in Balcombe. This led to a number of successful defences being run at trial on behalf of protesters, many of whom had become involved in political action for the first time in their lives. “How did the police get it so wrong?” he asked, despite the police involved having claimed that they had had advice from a ‘leading human rights law adviser’.

Tom argued that the protesters were determined to use effective actions such as lock-ons and sit-down protests rather than the more anodyne action of placard-holding that the police had expected. The police could not compute that. They ended up taking outrageous and disproportionate steps where no such over zealous steps were necessary. Importantly, the police saw human rights protections as merely a technical requirement of policing rather than a valuable goal.

Both Tom Wainwright and Melanie Strickland agreed that the solidarity provided by the many supporters and members of the public who packed out the public gallery at the trials of those being prosecuted for their protests at Balcombe had had a tangible impact upon the decisions that were ultimately taken by the court.

Just a few days after this lecture, the anti-fracking campaigners lost a High Court case to stop further fracking at Balcombe: surely further evidence of the institutional zeal for this harmful project and of the importance of activism and community resistance.

Nick Bano

November

2: The family of a 17-year-old girl, who committed suicide following police detention, sought judicial review of the Home Office’s policy for detaining young people. The legal challenge is being supported by the families of other young people who committed suicide soon after being detained in police custody.

5: Thousands of protesters gathered for the Million Mask March in central London. The anti-capitalist protest was part of a global annual protest organised by Anonymous.

21: The Supreme Court will hear the case brought by The Guardian to publish secret letters written by Prince Charles. The Government has resisted a Freedom of Information request since 2005 to disclose copies of the letters and in 2013, Dominic Grieve QC MP, then Attorney-General, blocked the publication of the letters after the Freedom of Information tribunal ruled that the letters should be disclosed.

December

5: The Investigatory Powers Tribunal found that the UK Government’s mass surveillance is lawful and does not breach human rights. A challenge to GCHQ’s surveillance was brought by Amnesty International, Privacy International, Liberty and other organisations who questioned the collection and use of mass data without a warrant.
Assault on welfare goes on

Just as catastrophic events are cynically used to bury ‘bad news’ so too are they used to advance political agendas.

Neo-liberalism has not only survived the financial crisis it caused six years ago, but has used the ensuing economic turmoil as an excuse to dismantle any obstacles to progress and profitability. The result has been an attack on social democracy and welfare systems in the UK and across Europe.

Collective bargaining, with its time-consuming participation of workers in decision making and its expensive protection of employment rights and standards, is a key focus of the attack.

How to address this mainstream political assault was among the subjects discussed at the European Lawyers for Workers Network (ELW) organised conference, ‘Six Years of Austerity and the Impact on Collective Bargaining’, held in Paris on 15th November 2014.

Isabelle Schoemann, senior researcher at the European Trade Institute, explained that the dominant European political discourse in how to tackle the economic crisis ‘assumes that lowering labour costs is key for improving competitiveness, growth and job opportunities’.

Country specific labour law reforms have been pushed through by the ‘Troika’ (comprising the European Commission, International Monetary Fund and the European Central Bank) in return for propping up struggling State economies. Although these take the form of ‘recommendations’, which have no legal standing, they effectively become conditions for the receipt of financial assistance.

In Romania and Greece, for example, new requirements for majority consent in sector wide agreements have made trade union participation harder to achieve and have been criticised by the International Labour Organisation (ILO) as being in violation of its conventions. Hopefully the newly elected Syriza-led administration will seek to reverse these requirements in Greece.

Other rescue packages in Spain and Portugal have required the implementation of ‘internal efficiencies’ within workplaces – a euphemism for wage cuts and the increased use of cheaper agency and temporary workers.

Trade union coordination and nationwide strikes have been placed under threat by recommendations that collective bargaining should be de-centralised to the level of the enterprise, rather than wider national or sectoral level.

Counterattacks have been launched and successful challenges to country specific EU recommendations have already been made on the grounds of inconsistency with national laws and the ratification of ILO conventions in Portugal.

Efforts are now being made to intervene in legal challenges at an early stage in order to phrase actions in terms of incompatibility with the fundamental social rights enshrined in EU law.

In other cases, notably Pringle v Ireland, however, defenders of austerity have successfully trumped social rights by invoking Article 16 – the right to freedom of contract. It is unclear how Europe’s courts will balance social rights with commercial rights going forwards.

Despite their ostensible independence, courts will be under pressure to capitulate to the political imperative. Lawyers defending collective bargaining rights must win the legal argument and face the task of changing the dominant political discourse that labour rights are not to be treated as economic adjustment factors.

Agnieszka Grabianka-Hindley

10: The President of Brazil, Dilma Rouseff, wept as she unveiled the report on human rights abuses committed by Brazil’s military dictatorship during their rule of Brazil from 1964 –1985, when 191 people were killed and 243 ‘disappeared’. Rouseff herself was tortured by the military and the US and UK were found to have trained Brazilian interrogators in torture techniques.

10: The release of a damning report by the Senate intelligence committee in the USA reveals the use of a torture programme that was employed by the CIA. The United Nations and human rights organisations call for the Obama administration to prosecute US officials responsible for approving the use of torture.

11: Private conversations between MPs and prisoners are supposed to be exempt from prison security regimes, which monitor prison calls. The Justice Secretary Chris Grayling MP admitted that these calls may have been recorded and monitored by prisons and at least 32 MPs are thought to have been affected.

11: Solidarity protests with rallies in the USA sparked by the death of Eric Garner were held at Westfield shopping centre in west London. 76 protesters were arrested at a mass ‘die-in’ protest in solidarity with rallies in the USA against police violence against members of black communities.

Socialist Lawyer February 2015
All across Europe – the ‘day of the endangered lawyer’

On Friday 23rd January 2015, Haldane members together with Philippines solidarity representatives demonstrated outside the Philippine Embassy in London. We carried posters with the photographs of five Philippine lawyers who were recently killed: Rudolfo Felicio, John Mark Espera, Jubian Achas, Sulpicio Landicho and Lazaro Gayo.

The reported total number of lawyers that have been killed in the Philippines since 2001 is 41, nine of whom were directly involved in handling human rights cases or issues. On top of this, 57 lawyers have been threatened, harassed, intimidated, subjected to surveillance, labelled and attacked in other forms, a sizeable 43 of whom were directly involved in human rights cases or advocacy. In addition, 18 judges have been murdered since 2001. Of the known perpetrators recorded, 65 per cent were identified to be members of the military while 20 per cent were from the police service. More than half of all attacks have no known perpetrator to date.

A delegation of three members of the protest was invited into the Embassy by Kristine Leilani Salle, First Secretary (Political). This included Rafael Joseph Maramag from the Campaign for Human Rights for the Philippines CHRP.

The delegation was very satisfied with Ms Salle’s open and constructive response to the petition which we handed to her together with the full report on the plight of lawyers in the Philippines which we provided. She promised that our demonstration and petition would be brought to the attention of all the relevant Philippine authorities. One alleged perpetrator is already being brought to trial.

This was the fifth Day of the Endangered Lawyer. The Day of the Endangered Lawyer is an initiative which was started by the organisation European Democratic Lawyers in 2010 on behalf of endangered lawyers in Iran.

The date of 24th January was chosen in remembrance of the assassination of four trade union lawyers and one employee in Atocha Street in Madrid in 1977, during the time of transition after the death in 1975 of the Spanish dictator General Francisco Franco. The perpetrators who were arrested...
Defending Magna Carta

The aftermath of the terrorist attacks on the French satirical magazine Charlie Hebdo has seen a number of leading political figures calling for the security services to be given greater powers to monitor our data, as a means to detect and prevent similar attacks in the future. For the Conservatives, the Prime Minister David Cameron and the Mayor of London, Boris Johnson have led the charge, with Cameron pledging to legislate to provide for increased State scrutiny of our telephone and internet usage, if elected in May 2015. The proposals have caused dismay among civil liberties campaigners who feel that the measures would be overly intrusive, and that there is a concerning lack of transparency around the use of such powers.

The extent to which the State should be able to interfere in our private affairs, and in our home life, is a familiar debate in Britain. The right to respect for one's home is perhaps one of the oldest rights protected by the law in this country. Famously, clause 29 of Magna Carta 1297 provides that "no freeman may be taken or imprisoned or disseised of his Freehold except by due process of law: a clause which mirrored a concession in the original charter made during the drafting process, or laws of most, if not all, these warrants to 'effect the lands of the rebel Barons from arbitrary confiscation by the King. This protection was reproduced in a stream of mediaeval statutes until the time of Henry VI.

Common law this right to respect for one's home found expression in seminal cases such as Wilkes and Wood (1763) Lofft 1, 98 ER 489. John Wilkes MP was the editor of the supposedly seditious North Briton newspaper. On 30th April 1762, Mr Wood, together with 'several of the King's messengers, and a constable' entered Wilkes' house and search his papers. The purpose of the search related to Wilkes' authorship of a particularly inflammatory editorial in the North Briton which was said to libel the King and the Lords at Commons. The search was carried out under the auspices of a 'general warrant' issued by the Secretary of State, Lord Halifax. These general warrants did not need to specify the name of any particular person, but allowed the bearer to break into the house of any individual deemed worthy of suspicion and seize his goods. Upon hearing the case the Lord Chief Justice declared the practice of issuing these warrants to 'effect the person and property of every man in this kingdom' and to be 'totally subversive of the liberty of the subject'. The jury, having deliberated until close to midnight, found for Wilkes and awarded him damages of £1,000.

It was this history which, no doubt, led to the notion that an Englishman's home is his castle becoming, to quote the recently retired Court of Appeal judge Sir Alan Ward, "firmly embedded in English folklore". And it was the legal protection encapsulated in this idiom which came to form the basis of Article 8 of the European Convention on Human Rights (ECHR), which secures for everyone within the jurisdiction of the treaty the right to respect for his or her private and family life, home and correspondence. The ECHR, which was signed by the United Kingdom in Rome on 4th November 1950 and which came into force on 3rd September 1953 – during Churchill's final premiership – was not intended to provide any great leap forward in the legal protection available in many of the State parties to the Convention. The travaux préparatoires to Article 8 of the ECHR (the preparatory documents recording amendments made during the drafting process), include the observation that, at time of drafting, 'privacy [and] the sanctity of the home... were protected under the constitutions or laws of most, if not all, countries' already. For many years this was used by the Government of the day as a means to resist first, allowing individuals the right to complain directly to the European Court of Human Rights (ECHR), and latterly, calls to enshrine the ECHR in domestic legislation.

Speaking out against the right to individual petition in Parliament in 1958 the Lord Chancellor, David Maxwell Fyfe – chairman of the legal committee involved in drafting the ECHR – declared such protection unnecessary since 'our law does guarantee for our citizens the rights and freedoms that are contained in the Convention'. But if this naïve assertion was ever true, it certainly ceased to be the case as time passed and the ECHR evolved. In 2002, the ECHR, considering the late Diane Pretty’s ‘right to die’ in the case of Pretty v UK (2002) 35 EHRR 1, remarked that Article 8 had developed to encompass the notions of self-determination and personal autonomy. In Manchester City Council v Frickin (2011) UKSC 45, [2011] 2 AC 104, the Supreme Court held that domestic law, in order to keep pace with the Strasbourg case law, must finally recognise that an individual faced with eviction from his or her home should at the last instance be able to rely on Article 8 by way of a defence. Shortly before Christmas 2014, the Court of Appeal in Gudanaviciene and others v Director of Legal Aid Casework [2014] EWCA Civ 1622 affirmed that Article 8 may, in certain limited circumstances, oblige the State to provide legal aid to a...
13: M5, M6 and GCHQ disclosed secret policies that advise staff to target and use legally privileged material. The admission was made before the Investigatory Powers Tribunal in a case brought by the al Saadi and Belhadj families regarding the kidnapings of family members. It is alleged that they were subjected to rendition and torture in a joint CIA-MI6 operation.

14: 300 survivors of child abuse and campaigners gathered at the House of Commons to object to the lack of progress in the public inquiry. The inquiry was set up to investigate whether public bodies had failed in their duty to protect children in care from abuse. The inquiry has suffered serious delays after two chairs, Dame Elizabeth Butler-Sloss and Fiona Woolf, had to stand down.

25: Voters in Greece deliver a resounding rejection of austerity in their general election. Radical left party Syriza storms to victory while the mainstream parties are left humiliated. The Tory-New Democracy party, which led the last government, won just 76 seats in the 300-seat parliament. Labour-type Pasok, which pushed through cuts in coalition with New Democracy, was reduced to just 13 seats.

On 31st January 2015, a ‘March for Homes’ converged on City Hall with thousands of people to find homes in London. One part started in south London, while the other came from the north of the city. It was a joint initiative by the Co-Chair Person of Young Legal Aid Lawyers, Connor Johnston, and the Co-Chair Person of Young Legal Aid Lawyers, Gudanaviciene.

Young Legal Aid Lawyers

>>> migrant who is seeking to challenge his or her removal from the UK as unlawful, where that is necessary to ensure a fair hearing.

Does this mean that the ambit of Article 8 has extended beyond that which was intended when it was Advisically drafted? In my view, yes. The facts of the case of IS, one of the migrants at the centre of the Gudanaeviciene litigation, provide a useful illustration. IS, who had a profound cognitive impairment, sought legal aid to try and regularise his immigration status so that he could apply for community care services. Dealing with the three legal issues this raises in turn, immigration control was a relatively novel concept in the UK in 1950 at the time the ECHR was signed. The Aliens Act 1905 placed some restrictions on the rights of certain migrants to live and work in the UK, but the Nationality Act 1948 allowed for British subjects and commonwealth citizens to come and go freely. Similarly, legal aid was in its infancy. The Legal Aid and Advice Act 1949 had only recently been enacted, replacing the piecemeal assistance which had been available to impoverished British subjects and that which was intended when it was increased. The law has always had to adapt in this way. Witness the Lord Chief Justice’s response to the emerging 18th century Government practice of issuing general warrants to deal with individuals such as John Wilkes MP, deemed to be thorns in the side of the establishment.

This, I think, is the argument that we need to make as we approach the next election, facing increasing numbers of politicians bent on the repeal of the Human Rights Act 1998. Let us not pretend that instruments like the Human Rights Act 1998. Let us not pretend that instruments like the ECHR have not changed well beyond that which was envisioned 60 years ago. But equally let us not accept that this is something new or undesirable or in any way out of keeping with traditions of which we should be justifiably proud. Connor Johnston is a barrister and the Co-Chair Person of Young Legal Aid Lawyers.

Murder of Nestlé worker Romero

On 18th December 2014, it was announced that the Swiss judiciary had refused to investigate the role played by Nestlé in the murder of Colombian trade unionist and Nestlé worker Luciano Romero (see the the article on this case featured in Socialist Lawyer 68). The European Centre for Constitutional and Human Rights (ECCHR) has responded by submitting a complaint against Switzerland on behalf of Romero’s widow to the European Court of Human Rights (ECtHR) in Strasbourg. The ECtHR is basing its case on the right to life (Article 2) and the right to an effective remedy (Article 13) guaranteed by the European Convention on Human Rights. The ECCHR must now determine whether...
New roll-call of soon to be eminent left-wing lawyers

The Haldane Society’s 2014 annual general meeting was held on 19th November 2014 at London Metropolitan University, which is the Haldane Society’s new venue for its human rights lecture series. As with previous lectures it was very well attended by both students and practising lawyers.

It was a real shame that John McDonnell MP could not give his talk as scheduled. He had been due to give an MP's perspective on the relationship between Parliament and the courts, but the Parliamentary debate on European Arrest Warrants and EU justice measures meant that he had to cancel at short notice.

Fortunately, a number of the Haldane Society’s more senior members were at the meeting. Partly for the benefit of students and the newer members, Michael Seifert, Bill Bowring and others spoke about the rich history of the Haldane Society and outlined some of its achievements and aims. Michael Seifert named people who had been active in the Haldane Society in the past, which was a roll-call of eminent left-wing lawyers.

Michael Seifert also described the Haldane Society’s habit of rejuvenating itself every few years as young, fiery lawyers are keen to replace older generations. It was interesting to see the meeting play out in that vein, as more junior practitioners took on important roles on the executive committee.

Despite John McDonnell’s absence it was a good and encouraging meeting. This coming year for the Haldane Society, with its newly elected executive committee, is sure to be one filled with energy, vigour and comradship.

Nick Bano

£13 billion

Hidden by UK tax dodgers in HSBC’s Swiss bank accounts.

ero in Colombia: Complaint against Switzerland is submitted

the Swiss judiciary has adequately examined Nestlé’s liability for Romero’s murder.

According to figures from Colombian sources, almost 3,000 trade unionists have been murdered in Colombia over the past 30 years. 13 of these worked for Nestlé. ‘Neither Nestlé management nor the Swiss authorities could claim to have been unaware of or powerless against the violence in Colombia,’ says ECCHR General Secretary Wolfgang Kaleck. ‘Trade unionists are being systematically murdered in Colombia. The killing of Luciano Romero is not an isolated incident,’ says Javier Correa, President of the Colombian trade union Sinaltrainal, which is assisting with the complaint along with lawyers from Colombia and Switzerland.

The Swiss judiciary dismissed all claims against Nestlé in the Romero case. In July 2014, the Swiss Federal Supreme Court held that the crimes in question were now statute-barred. ‘The lapse of the statute of limitations, a lack of jurisdiction, investigatory difficulties – it’s always the same arguments. European corporations are almost never held accountable in their home States for human rights violations committed abroad,’ says Kaleck. ‘Europe badly needs a catalogue of human rights due diligence obligations for corporations.’

For more information on the Luciano Romero case please visit http://www.ecchr.de/nestle-518.html.

Annelen Micus

February

2: Capita, the private outsourcing company, has been ordered to pay £16,000 by the most senior judge in the family courts, Sir James Munby, for its ‘lamentable’ failure to provide interpreters seven times in the course of a single adoption case. Capita took over the £360m contract in 2012 after it bought another firm, ALS. Professional interpreters are still boycotting the service because of low fees.

6: The Investigatory Powers Tribunal (IPT) declares that regulations covering access by Britain’s GCHQ to emails and phone records intercepted by the US National Security Agency (NSA) breached human rights law. The ruling suggests that aspects of the operations were illegal for at least seven years – between 2007, when the Prism intercept programme was introduced, and 2014.

13: Israel’s Supreme Court rejects the appeal by the family of Rachel Corrie – the US activist who was crushed to death by a military bulldozer in Gaza in 2003 – which had sought to hold Israel liable for her death. The family said it ‘amounts to judicial sanction of immunity for Israeli military forces when they commit injustices and human rights violations.’
‘Rubbish’
That’s the verdict of an eminent public law barrister and QC on the Government’s proposed plan to radically alter the UK’s relationship with the European Court of Human Rights. Is she right? Russell Fraser thinks so.

The onslaught continues. Since April 2013 the Justice Secretary, Chris Grayling, has been laying waste to our justice system. His package of legal aid cuts continued the work of his predecessor, Kenneth Clarke MP; whose attacks have seen thousands denied legal assistance in most areas of social welfare law. Yet arguably, Mr Grayling’s justice cuts are worse – much worse – and are deliberately devised to deny access to the courts to those the Tories consider unworthy of protection: foreigners, prisoners, the indigent, and those who challenge Government policy in the courts.

Disgracefully, though whimpered complaints occasionally issue from the opposition benches, Labour has made no clear commitment to undo the damage so obviously being wrought. Surprisingly, in fact, it is from the benches of the High Court that the most damning appraisals of Mr Grayling’s cavalier treatment of justice and the rule of law have descended. At times, however, it looks as though Mr Grayling is simply emboldened by criticism of his lack of understanding and his portfolio says the increasing tally of legal judgments ruling against him: like a drunk who revels in the cries of the crowd begging him not to stray too close to the edge. So, revelatory it is not, because it is simply not true. The ECtHR has no power to overrule decisions of Parliament; indeed section 3(2) of the Human Rights Act 1998 (HRA) explicitly preserves parliamentary sovereignty. The document goes on to argue that in a decision in 2013, the ECtHR decreed that murderers cannot be sentenced to life imprisonment. However, the ECtHR did no such thing; it simply ruled that prisoners must be entitled to a review of their detention.

Finally it is claimed that ‘Labour’s Human Rights Act’ (as it is fatuously referred to throughout) exceeds the UK’s obligations under the European Convention on Human Rights. The HRA, says the Tories, makes the ECtHR’s jurisprudence ‘binding’ on domestic courts: in other words its decisions must be followed. This too is utterly wrong; the HRA has no such effect.

Such consistent and thorough misrepresentation of the legal position is no mistake. The proposals are pure propaganda rather than any genuine attempt to analyse the problems – and there are some – with the ECtHR. Much of what is proposed will do little to change the reality of how the European Convention on Human Rights affects us – as much is conceded in the closing paragraphs.

Only a withdrawal from the Convention itself would terminate the UK’s obligations and the Prime Minister David Cameron has only hinted that this could ever be a possibility. It is no coincidence that these proposals come at a time when the Tories’ electoral share and in turn their chance of remaining in power are threatened by the rise of Ukip. The language of the proposals is thoroughly reactionary with its appeals to ‘real circumstance’, ‘common sense’, and putting ‘Britain first’. The Tories promise a draft ‘British Bill of Rights and Responsibilities’ as though the HRA is some pernicious foreign import of dubious origins. The aim of the plans is clear: to fuel the belief that the ECtHR protects unpopular minorities such as prisoners, foreign criminals, and murderers, to the detriment of the law-abiding majority and that we (or rather Labour) have already surrendered a great slice of sovereignty to the European super State. The Tories calculate that by a combination of deliberate deception and macho posturing in the direction of Strasbourg that they will quell the Ukip insurgency ahead of the election. If accuracy is indeed a duty and not a virtue then each of us has an obligation to expose these plans for what they are and to rail against them wherever their claims surface.

The European Convention on Human Rights is far from ideal. It does not yet endorse socioeconomic and environmental rights as new constitutions throughout the world have done in recent decades. Yet the HRA has done much for society with which socialists should find common cause. Before its introduction people seeking redress were forced to petition Strasbourg directly with all the attendant costs, delay, and difficulty that entailed. Now our courts must consider human rights in all that they do. Perhaps its chief function is that it protects the vulnerable and provides an effective check on the over mighty State. Its provisions mean that our Governments cannot lawfully sanction agents to torture. And where that prohibition is infringed it can be investigated and accountability achieved. It means that the Government bodies cannot infiltrate citizens’ communications without good cause. It means that unscrupulous landlords cannot simply evict tenants on a whim. It means that there are limits on the time in which the authorities can retain our DNA and other personal information. It protects religious freedom, political organising and trade union membership, and freedom to criticise in writing the powerful and the wealthy. All of this should be embraced closely and dearly. The best way to extend these gains will be by recognising the achievements the HRA has heralded and objectively critiquing its shortcomings. The Tories have no interest in either.

Russell Fraser is a criminal barrister and chair of the Haldane Society of Socialist Lawyers. This is an edited version of an article which first appeared in Labour Briefing.
The receptionist looks up as a large group of people file into the housing office all at once with pushchairs and leaflets. They move up to the desk and one of them says they need to see the manager – they have an urgent complaint. A security guard asks them to sit in the corner, out of the way. ‘But that’s the point’, one woman says, ‘this is a protest. We’re supposed to be in the way’.

Ellie Schling on a new campaign aiming to mix legal advice, direct action and solidarity in order to secure housing rights.
The London Coalition Against Poverty (LCAP) began using ‘direct action casework’ to challenge gate-keeping at Hackney’s homeless persons’ unit in 2007. ‘Direct action casework’ means using a variety of tactics to support someone to demand access to the public services they need, including legal advice, protest and campaigning. In practice it is often a group of people accompanying someone to the relevant office and refusing to leave until their problem is resolved.

LCAP is made up of five groups based in different London areas. These groups meet up regularly in community centres and cafes to discuss how to support their members with housing and benefits issues. At these meetings people bring up their issues and discuss them with input from the entire group. By the end of the meeting they might have found out where to go for legal advice, have heard how someone else in the group resolved a similar problem, planned to visit the housing office en masse, contact the press or occupy the town hall. The example from Housing Action Southwark and Lambeth (HASL) below shows how direct action tactics can successfully complement legal representation:

Ruth had been declared ‘intentionally homeless’ by the London Borough of Southwark after being evicted from her temporary accommodation after allegedly accruing some rent arrears. Like other homeless families, Ruth and her children had been housed in poor quality, but expensive, temporary accommodation on the Aylesbury estate. They had been stuck in temporary accommodation for seven years, and now had nowhere to go. After being evicted, they were staying with a neighbour who had agreed to put them up for the time being.

HASL went with Ruth to Brixton Advice Centre to get legal representation to challenge Southwark’s decision. A solicitor took on her case and put in the appeal. The solicitor requested that during the appeal the London Borough of Southwark use their discretion to house the family. However, after two weeks’ Southwark Housing decided they would not house Ruth and her kids.

Acting quickly, HASL organised a mass visit to Southwark town hall to demand Ruth be given temporary housing without delay. The day after a lively demonstration at the Mipim conference, a group of 20 filed into the town hall asking to speak with the head of housing and to have our issue resolved. The unstoppable Focus E15 mums also burst into the town hall to join us. After an hour or so, the head of homelessness had been located and was there to speak to the group about Ruth’s case. We insisted that he address the whole group as we did not want to be split up and made less powerful. Everyone knew Ruth’s situation and we wanted a simple outcome that could be discussed in the group. After a stalemate – with a decent attempt by some to storm the tiny meeting room that the head of homelessness had retreated into – we arranged for four of us, including Ruth, to meet with two of them. We emerged from the tiny meeting room after 15 minutes with a guarantee that Ruth would be housed that day.

Our mass visit complemented the work done by Ruth’s lawyer, securing a quick and definitive response to the lawyer’s request...
Cathy's got no home

by Wendy Pettifer

On 12th November 2014, the Supreme Court decided that no Possession Order is required to lawfully evict the homeless from temporary accommodation provided in accordance with section 188 (1) of the Housing Act 1996 pending a local authority's decision on whether they are eligible, unintentionally homeless and in priority need – R(ZH and CN) v LB Newham and LB Lewisham.

In 1977 Parliament implemented the Homelessness Act 1977 which for the first time gave the homeless a legal right to apply to a local authority for shelter if certain criteria were met. This was after the showing on the BBC of a drama documentary, Cathy Come Home, which tugged at the hearts of the nation, showing a single mum losing her children to social services after she became homeless. The Localism Act 2010 removed the duty endorsed in the Housing Act 1996 on local authorities to provide secure accommodation to those homeless applicants to whom they held a full re-housing duty. Instead they can discharge that duty by finding them accommodation in the private sector.

Combined with the 2012 benefit caps this has rendered hundreds if not thousands of families homeless for a second time around. Their assured shorthold tenancies, often rat infested, leaking and damp have become unaffordable as they do not have enough money to pay the shortfall between their extortionate contractual rent and their housing benefit. However, in 2014, social services departments are finding that they do not have sufficient budgets to pay for deposits and rent in advance to send people back into the private sector.

I am a solicitor at Hackney Law Centre, representing homeless people. The following are examples of cases which illustrate the grave problems individuals and families are encountering with their housing.

Owing to legal aid cuts, Ms X was unable to find a solicitor to help her challenge a decision of intentional homelessness made by Redbridge Council in April 2014. She has indefinite leave to remain in the UK and has a husband and six children. She currently stays with her elderly father and two siblings in a two-bedroom house in Haringey. She sleeps with her husband and children in the living room. At the time of writing, Haringey social services had refused to help her. One of her children has recently been hospitalised with meningitis.

Ms Y was unable to obtain legal advice when she was made homeless with her three daughters by Enfield Council in 2013. She is British. She was able to stay with a friend for a while, but since August 2014 has been living with her mother in a one-bed flat, also in Haringey. Her mother has recently been harassed by drug addicts who constantly call at the flat. Ms Y’s 16-year-old twins, who were an uncle who was shot dead and a son in prison, have seen their grades plummet. Ms Y already has an uncle who was shot dead and a son in prison. At the time of writing, Haringey social services refused to help.

Both these families became homeless because they could not pay their private rent in advance to send people back into the private sector.

HASL’s action not only supported the work done by Brixton Advice Centre, it achieved an immediate change in the local authority’s decision not to house Ruth. It was an empowering experience for Ruth and her supporters, who found that by standing their ground they could succeed in changing the local authority’s decision. Taking action as a group enables all members to play an active role in supporting each other. Hackney Housing Group, for instance, has a high proportion of members who speak little English. These members cannot necessarily write a letter for another member, but they can organise and carry out a group action in the housing office.

Because the groups are willing to pressure the authorities in order to achieve what their members need to lead decent, dignified lives, their actions can often achieve unexpected results. Back in 2011 Julieta, one of Hackney Housing Group’s long term members brought a letter she had received to the group meeting. It was a closure order from the local authority’s environmental health department. The private accommodation she lived in was so dangerous that the local authority were ordering it be shut down. In this house on a busy road in Hackney, 12 rooms were let out to families and single people. All of the tenants were migrants. Each room cost £300 a week. The house was riddled with damp, the ceilings had fallen down in the communal toilets, the gas and later the water were shut off. There was no heating and winter was coming on. Despite the closure order, the local authority made no provision for the tenants. They had not been able to find a new accommodation in the private sector.

Our mass visit, with the efforts of 20 people, was met. This was after the showing on the BBC of a drama documentary, Cathy Come Home, which tugged at the hearts of the nation, showing a single mum losing her children to social services after she became homeless. The Localism Act 2010 removed the duty endorsed in the Housing Act 1996 on local authorities to provide secure accommodation to those homeless applicants...
anywhere better to live – and now they faced the prospect of street homelessness or moving away from their low wage jobs in central London.

Hackney Housing Group visited the property with Juliesta and organised for more of the residents to become involved. The group visited the local authority with over 30 people, many of them residents. Surprisingly, the local authority immediately began to house some of the residents; even those who would not ordinarily be given any help as homeless, who were not considered priority need or eligible. Yet they still refused to house Juliesta, her son and some of the others. In response the group held spirited demonstrations demanding justice and fair treatment outside the Hackney Service Centre. At one such demonstration, the local authority barred all of the entrances to the building and refused to speak to the group. However, after still more campaigning, articles in the local press and continued demonstrations, complemented by legal action and complaints written by solicitors, the local authority backed down and housed Juliesta and the others.

Not all issues faced by the LCAP group members are resolved so dramatically as the examples above imply. Often no group action is requested or seems appropriate. Some problems take many years to resolve, with people receiving quiet support from other group members. They are accompanied to court hearings and appointments, have letters written in support of their cases and, often most important of all, have the chance to share what they are going through with sympathetic listeners at regular meetings. Such sustained group support offers people the chance to break through the isolation often felt when battling poor housing and poverty alone. By being connected to others, knowing they are not alone, group members gather the strength they need to keep fighting back. Many stay involved with the groups and help others in turn.

There is no doubt that timely and effective legal action is often essential in order to effectively challenge unlawful decisions by local authorities and the Department for Work and Pensions. However, legal action alone can do little to change the cultures of disrespect in many housing offices and job centres. Increasingly the poorest are made to bear the brunt of budget cuts as the services they rely on are withheld, lawfully or not. That is why LCAP started in 2007 to use direct action casework to challenge ‘gate-keeping’: the practice whereby homeless applicants are turned away by the housing office without fulfilling their duty to assess them under Part 7 of the Housing Act 1996. While homeless people have a right to be assessed, few people visiting the homeless person’s unit know this and so they are often easily deterred from making an application. The first thing LCAP did to counter this was to hand out information about the right to make a homelessness application. Armed with knowledge about their rights, people could demand these were met themselves. If that still did not work, LCAP organised groups of supporters to accompany people back into the office and back up their demand for a homelessness assessment. From the very beginning this work was made possible by the support of sympathetic legal professionals who wrote our ‘Get Your Rights!’ leaflets, offered advice on what direction to take with tricky cases and even joined LCAP themselves as active members.

Today, the mutual support groups that make up LCAP continue to be supported by a network of sympathetic lawyers and advice workers. If you think you could help please contact: londoncoalitionagainstpoverty@gmail.com

Ellie Schling helped to found London Coalition Against Poverty in 2007 and continues to be an active member of the Hackney Housing Group.

When it was first shown on BBC television in November 1966, Ken Loach’s Cathy Come Home drama (with Carol White as Cathy, pictured right) – about one young family’s descent into homelessness – caused a public outcry.

sector rent after benefit cuts. Both have ended up in Haringey. Both were unable to get legal advice which would have resulted in County Court appeals against the intentional homelessness decisions. They were evicted from their temporary accommodation without due process, as is now endorsed by the Supreme Court.

There is no longer any safety net. Ultimately the elderly relatives will be unable to cope, and like Cathy in the film Cathy Come Home, my clients will be left homeless on the street with their children. Only this time social services will not be able to step in. Without a secure and stable home, these nine children, aged from three-months-old to 16-years-old, are being placed at serious risk. These are the inhuman consequences of years of austerity and the constant erosion of the welfare state. We must continue to campaign to restore the safety net once provided by the State and for the provision of housing for all those in need.

Wendy Pettifer is a solicitor at Hackney Law Centre.

Socialist Lawyer February 2015
Tinker, tailor

KDEwing, Joan Mahoney and Andrew Moretta on surve.
r, lawyer, spy?

veillance of the Haldane Society during the Cold War
Members of the Haldane Society no doubt reflect on whether special branch or the security service (or both) have infiltrated the Society and whether as a result they are the subject of surveillance by the State. If anyone is reading this article, permit us to put your mind at rest by suggesting that you are right to reflect and that if history is any guide you are almost certainly the subject of surveillance. This is unless of course you happen to be the reader who is doing the surveilling, though it is likely that you too are being watched, comrade.

MI5 files selectively released to the National Archives reveal that the Haldane Society was one of a number of organisations on the left subject to close surveillance, and that the Society was deeply penetrated by the security service. Indeed, it appears that the Haldane Society was subject to surveillance long before it split in the late 1940s, with MI5 agent M/7 unwittingly put up for membership by barrister Dudley Collard. The latter was close to the Communist party and represented party members in high profile cases. The hunt is now on to find the identity of agent M/7.

MI5 kept files on tens of thousands of individuals and organisations (including law firms such as Thompsons), though by no means all MI5 files have been released. We suspect that files for release have been very carefully selected, and very carefully weeded, as well as very carefully redacted, to enable historians to write their benign victor’s account of the Cold War. But although strenuous steps have been taken by MI5 to censor what we may or may not see, enough is available by close research and examination of what has been released to enable us to know that the Haldane Society was a target.

Lawyers had no immunity from MI5 surveillance during the Cold War and progressive lawyers had even less. Solicitors and barristers who were members of the Communist party or who were associated with the Communist party were watched. Being a Member of Parliament provided no immunity from surveillance either, with one of the thickest files being that of D N Print KC MP, who was close to the Communist party and carefully monitored even during his parliamentary career. But members of the Haldane Society should not be too alarmed; membership was not always a barrier to the Bench, as the example of Mr Justice Lawson (PF 41,933) makes clear.

The security service had a particular interest in the Communist party lawyers’ group, an interest that was enough to justify mail checks and tele-checks on individuals who were associated with the group. Francis Loeffler was one such individual, distinguished not only by his membership of the party but also by his marriage to Sabine Kuczynski, whose elder sister Ursula Beurton was (rightly) suspected of espionage on behalf of the USSR. Although deeply involved in espionage, Ursula (alias Sonja) was always several steps ahead of MI5. She left the country at the start of the Klaus Fuchs trial in 1950.

Loeffler’s file reveals that his mail had been intercepted intermittently since the 1940s and continuously for almost two years in the early 1950s. This surveillance was said by an MI5 official (applying for a fresh Home Office Warrant (HOW) in the mid 1950s) to have produced a considerable amount of material about the Communist party lawyers’ group, including minutes of its meetings. Some of this information is also on file, providing rich data about a number of Communist party associates. In requesting a fresh HOW,
the MI5 official also reveals that he was ‘anxious to have a source of information about the Lawyers’ Group and the Haldane Society, and hope that a check on Loeffler’s mail will provide this.’

It was through individuals such as Loeffler that MI5 thus acquired information about the Haldane Society. In this case the mail-check yielded rich pickings, including the membership list of the Society, gold dust for the security service. While securing access to the Haldane Society was sufficient justification for the exercise of surveillance powers, and while surveillance provided important information, it was not the only source. One file entry refers to a special branch source said to be ‘fairly reliable’, providing information about the Society’s Executive Committee elections on 10th October 1956.

part from this general interest in the affairs of the Society, controversy would excite particular interest, as in the split in 1949, which led to the formation of the Society of Labour Lawyers; and again in 1956 over events in Hungary, which split the British left generally. The events in Hungary inevitably exposed the political differences within the Haldane Society, as least as told by MI5’s snitches, some of whose work is retained for posterity in the file of Francis Loeffler, and elsewhere.

An MI5 source report dated 5th December 1956 gives a detailed account of these differences over Hungary, the source being said to be ‘a regular source in touch with Haldane Society affairs’. This over-active informant had spoken to the friends of Executive Committee member John Elton, the ‘friends’ being members of the Society; as well as a ‘young acquaintance’ of D N Pritt, the young acquaintance also being a member of the Society. It is not clear if the ‘regular source’ was a Society member.

The ‘regular source’ revealed that there were three positions on the Haldane Society’s Executive Committee about a motion that would simultaneously criticise the British government in relation to Suez, and the Soviet Union in relation to Hungary. In the end the informant also revealed that an amended resolution was carried, retaining the criticism of the Soviet Union, and that the Communist party lawyers’ group voted on grounds of conscience, partly to avoid causing another damaging and potentially fatal schism.

Information provided to MI5 from a different source (identified as KAFH) reveals that there was grave disquiet at the next meeting of the Communist party lawyers’ group about the Haldane Society vote on Hungary. Apparently incandescent, Ralph Milner complained that the ‘rebels’ (including Loeffler) had breached party rules. Not only that: the disunity had ‘greatly weakened the party’s position in the Haldane Society’. According to the ‘reliable and well placed’ source of this information, Milner’s statement has split the group 50/50, and had revealed Loeffler to be ‘on the verge of a breakdown’.

Otherwise, the infiltration of the Haldane Society was used to pick up information about individuals of interest, which would require informants to be directed about the information to be provided. Returning to Neal Lawson, one entry in his personal file from 1957 records that it would be of ‘considerable interest’ to know – for reasons unknown – whether Lawson was in the habit of attending meetings of the Society, and in
The Haldane Society was thus the subject of surveillance by interception and infiltration, whether by planting people in the Society, or by cultivating those already there. Like other organisations at the time, it was also subject to special branch surveillance, with undercover officers turning up at its meetings and recording who was there and what was said. This information would appear eventually in various files, usually of the individuals who were speaking if they were otherwise the subject of surveillance. This was to be expected and does not deflect attention from the question of who were the informants on the inside.

It is unlikely that the identity of informers will ever be formally released, though brief glimpses of these characters are sometimes provided, probably by mistake on the part of the civil servants who weed files before they are deposited at Kew. An example is provided in file LO 02/227, which contains correspondence between the Tory backbencher Cyril Black MP and the Attorney General Sir Reginald Manningham-Buller in 1955. Here we find the MP for Wimbledon writing to the Attorney General about a constituent who would prefer ‘if possible not to have his identity revealed’.

The constituent in question was said to be ‘a strong anti-communist’, who had attended a meeting of the Haldane Society at which Jack Gaster was said to have made a speech of ‘treasonable character’ about the Korean conflict. The matter was taken sufficiently seriously to involve the Director of Public Prosecutions, Sir Theobald Mathew, who advised that it would be very difficult to establish that anything said at
a Haldane Society meeting was treasonable, but suggesting also that it would do no harm to interview the informant ‘since he is apparently prepared to supply information on request’. It is unclear whether this suggestion was followed.

Unusually, however, the brief exchange of correspondence between Black, Manningham-Buller, Mathew and officials revealed the identity of the informant, the MI5 censor apparently not consulted when this file was opened in December 2007. On 22nd March 1955, Black wrote to Manningham-Buller in the following terms:

‘I have been in communication with my constituent who has authorised me to disclose his name. He is Mr A F H Lindner, Solicitor, practising at 17, Soho Square, W1, whose private address is 2, Ridgeway Gardens, Wimbledon, SW19.

Mr Lindner tells me that he has not retained his notes that he took of various statements made at meetings of the Haldane Society which he attended, but, following each meeting, he sent a full report to the special branch as to the statements made which he regarded as being of a treasonable character. You can presumably obtain access to these reports sent by Mr Lindner to the special branch. Mr Lindner would be available for interview if desired.’

We know nothing about Mr Lindner, but note that an A F H Lindner had been an unsuccessful Labour candidate at the 1945 general election. We do not know at this stage whether they are the same person. We have no idea whether Mr Lindner provided other information or who were the other ‘sources’. Any other ‘evidence’ that may tend to link Mr Lindner to other information may be purely speculative and coincidental. Further digging is required if these sources are to be turned up. It is clear from file LO 02/227, however, that anonymity of sources cannot always be guaranteed forever.

It is difficult for any rational person to anticipate the value of any of the foregoing information. Indeed, a little insight into the futility of the surveillance was provided when in the 1960s John Bowden visited Greece on behalf of the Haldane Society, at the time of the colonels to investigate alleged human rights violations. The British Embassy in Athens was unsure how to deal with the Society, unable to find it on the Foreign Office’s blacklist of organisations maintained by the shadowy Information Research Department. The Foreign Office advice to Athens, at the time of a Labour government, was that the Haldane Society was to be ‘refused any assistance beyond routine courtesies’.

More significantly, the other advice from the Foreign Office about the Greek visit was that while the Society remained ‘under strong Communist influence’, John Bowden (who had been ‘on the Society’s Executive since about 1958’) was not ‘known as a Communist’. On the contrary, John Bowden, PF 719, 284, was a well-known and much-respected man of the left, having previously been monitored on the occasion of a visit to Warsaw as a guest of the Polish Lawyers’ Association in 1958. Moreover, a special branch report reveals that he was the subject of MI5 surveillance and that indeed he was known to be a member of Communist party lawyers’ group, as confirmed by the Morning Star after his death.
On 26th September 2014, 43 male students from Ayotzinapa went missing in Iguala, Guerrero. They were travelling there to protest at a conference led by the mayor’s wife when local police intercepted them. An official investigation concluded that the students were handed over to the local Guerreros Unidos ("United Warriors") crime syndicate and presumably killed. Authorities claimed Iguala’s mayor, José Luis Abarca Velázquez and his wife Maria masterminded the abduction. The disappearance of the 43 students sparked mass protests in Mexico, Proceso magazine implicated Federal Police and the army in the case and the Attorney General officially declared the 43 students dead on 26th January 2015. The remains of many of the 43 are yet to be found and their families’ search for justice continues.

That which returns:
A poem for Alexander Mora

by R. Rahal

It was only a molar that returned home
that resisted the embrace of fire
the earth’s blow
the river’s current

Clinging to preserve all his words
that now cry out from all of our mouths

A molar and a bone
was what they gave his father for all eternity one cold December
A light sowed by hatred
during an endless September night

So many feet treading unknowingly
along the path that might find them
So many cries searching fruitlessly
for the mouths to which his words belong

How much is left of all of those we are missing?

Translated by Camilo Pérez Bustillo
Lo que vuelve:
poema para Alexander Mora

por R. Rahal

Sólo una muela volvió a casa
resistió el abrazo del fuego
el golpe de tierra
el caudal del río

Se aferró a guardar todas tus palabras
que ahora gritan todas nuestras bocas

Muela y hueso le dieron a tu padre
para siempre un diciembre frío
una luz sembrada por el odio
la noche de un septiembre interminable

Tantos pies que recorren sin saber
a donde lleva el camino de encontrarlos
tantos gritos que buscan sin hallar
a que bocas pertenecen sus palabras

¿Cuánto nos queda de todos los que nos faltan?

Image: Subversiones: Agencia Autonoma de Comunicacion
In November 2014, members of the Haldane Society, along with European Lawyers for Democracy and Human Rights (ELDH) and the International Association of Democratic Lawyers (IADL) attended as international observers at a trial which has come to be seen by the international community as a witch hunt against human rights lawyers practising in Turkey.

Lawyers, journalists and activists came from all over the world to witness the latest hearing in the trial of various members of Çagdaş Hukukcular Derneği (Progressive Lawyers Association).

**Çagdaş Hukukcular Derneği (CHD)**

CHD is an organisation that consists of progressive Turkish lawyers. It was established in 1971. The aim of CHD is to ‘improve the law; establish a legal system which is based on the liberation of humanity and on the basis of democracy, guaranteed through the public consciousness; to perform actions for preventing all kinds of violations against fundamental rights, primarily the right to life and human dignity’. Despite being banned during the 1990s, CHD now has 12 branches across Turkey and about 2,500 members.

**Criminal case against the CHD lawyers**

At 4am on 18th January 2013, a three day police operation began which saw the illegal raiding of the offices of CHD, the arrest, questioning and charging of 22 of its members and the remanding in custody of nine of those charged.

Eight months following the beginning of the police operation, the prosecution served a lengthy indictment containing numerous offences, of which the most serious are allegations of support, membership, administration of, and organisational activity within a terrorist organisation.

Court proceedings began on 24th December 2013 and have garnered both national and international attention. The unlawful conduct of the investigations, the spurious nature of the evidence relied upon and the reprehensible decisions of the judiciary involved in this case in particular have led to outcry from the international community.

The latest hearing took place on 1st November 2014. Further hearings are due to take place on 13th and 14th May 2015.

**The evidence**

The prosecution claims that these lawyers are supporters, members, organisers, or administrators of the Revolutionary People’s Liberation Party Front (DHKP-C), which is designated as a terrorist organisation by the European Union.

When looking closely at the indictment, however, a fallacious air quickly becomes apparent. Most striking is the nature of the evidence relied upon. Two such glaring examples of many are:

- Requests for CHD lawyers by terrorism suspects detained at the police station are considered as evidence of membership of a terrorist organisation. A statistical analysis of police station representation of terrorism suspects between 2010 and 2012 purports that most DHKP-C suspects requested CHD lawyers prior to interview. Rather than coming to the logical conclusion that such requests arise from the organisation’s outstanding reputation, the prosecution makes the acrobatic leap to the assumption that these lawyers must be members of a terrorist organisation.

- The indictment controversially includes statements from ‘anonymous witnesses’ dated between 2011-12. These statements are relied upon despite numerous witnesses declaring in open court that their statements were obtained while under pressure from the police.

**Breaches of Turkish law**

During the course of the police investigation into these matters countless breaches of domestic law were committed, in themselves symptomatic of the political hysteria surrounding these cases. Examples of such breaches are said to include that:

- The beginning of the investigation saw the illegal raiding of CHD’s offices on 18th January 2013. The searches were conducted in violation of Article 130 of the Turkish Criminal Code. They were deliberately written in an abstract, unspecific way and failed to provide a single concrete fact or even accusation.

- The arrest warrants issued against the CHD lawyers did not contain the necessary ‘legal and factual grounds and reasons’ outlined in Article 101 of the Turkish Criminal Code. They were deliberately written in an abstract, unspecific way and failed to provide a single concrete fact or even accusation.

- Lawyers representing the accused CHD lawyers in these proceedings have been subjected to attacks by the police in the course of representing their clients. In the most alarming example, these lawyers were attacked outside court by police in riot gear on 20th January 2014.

**Breaches of law and violating rights**

Despite immense pressure, human rights lawyers in Turkey have remained resolute, says Carlos Orjuela
Breaches of International law
Aside from numerous breaches of domestic Turkish law not limited to those examples outlined above, the proceedings have seen violations of fundamental human rights principles by both the police and judicial authorities.

As is well known, the right to a fair trial is enshrined in various international instruments, including Article 10 of the Universal Declaration of Human Rights, Article 14 of the International Covenant on Civil and Political Rights and Article 6 of the European Convention on Human Rights.

However, from the outset the so-called Specially Empowered Courts (SECs) – designed to investigate, prosecute and try cases relating to terrorism and organised crime – are said to have consistently violated these principles. Procedural safeguards have been curtailed which in turn undermines the fairness of the proceedings. The courts would, for example, heavily restrict the amount of disclosure available to the defence or would readily accept illegally obtained evidence by the police. The domestic and international criticism of these courts was such that they were eventually scrapped and replaced during the course of these proceedings.

Despite the abolition of the SECs, the new courts which have taken over these cases decided to continue matters at the same stage of proceedings, thereby adopting the controversial decisions made by the SECs to accept the type of evidence listed above.

The presumption of innocence is also a key element of a fair trial which is enshrined in Article 11 of the Universal Declaration of Human Rights. Aside from the obvious burden it places on the prosecution to prove allegations beyond reasonable doubt, there is also a duty for all public authorities to refrain from prejudging the outcome of a trial. Despite this, the Turkish authorities have continuously undermined this presumption at the commencement of and during these proceedings. A pertinent example of this occurred on 30th January 2013, when Prime Minister Erdogan referred to the case by stating that ‘the lawyers have meetings behind 11 steel doors and they perform activities of terrorist organisations’. In the same speech he went on to say: ‘The lawyers are not innocent’.

Further prejudicial statements and false information have been fed to the Turkish media which dutifully publishes these missives, creating a sense of hysteria around the case.

These allegations and the procedural irregularities seen in the courts represent a major attack on the right to an effective defence in criminal proceedings. Article 16 of the Basic Principles on the Role of Lawyers adopted by the UN in 1990 (the Havana Principles) states that ‘Governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference…’ Article 18 goes on to state that ‘Lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions.’

By criminalising these individuals for carrying out their professional duties as defence lawyers in representing and advising clients effectively at all stages of the criminal process, the Turkish authorities are actively intimidating, hindering, harassing and improperly interfering with the conduct of an effective defence. The message is clear: if you represent someone the State does not like, you will be tarred with the same brush as those clients.

Response of the CHD
Despite the immense pressure facing CHD, the response from these lawyers has been resolute.

Upon the discovery that their offices were being raided and colleagues arrested, members of CHD rushed to their Istanbul office to protest the illegal actions of the police. The response of the authorities was to use tear gas on the lawyers.

Many of the lawyers who were taken into custody began a hunger strike in protest against their treatment at the hands of the police both upon arrest and while being detained at the police station.

Further protests and marches with thousands of members of the profession have been organised in response.

On the day of the raids, Selçuk Kozagaci, president of the CHD and age of the accused, published a statement which contained the following defiant words:

‘We are the lawyers of the revolutionaries, people in poverty, and the families of the Kurdish children who were killed with police bullets, in short we are the lawyers of the oppressed.’

International solidarity
From the outset, the domestic support for the CHD lawyers has been accompanied by international solidarity from various national and international associations, including the Haldane Society, ELDH and the IADL.

These groups have sent delegations to Istanbul over the last two years in order to carry out fact finding exercises, trial observations and general solidarity work during their stay.

On 11th November 2014, members of the above organisations were present for the latest hearing in the proceedings. The defence decided to raise issues regarding the unconstitutionality of the proceedings given the recent abolition of the SECs. It was argued by the defence that these cases should be referred to the Constitutional Court as it had been unlawful for the current courts to bind themselves by the decisions of the SECs. The defence also argued that if such a reference were not to be made, the proceedings should commence ab initio. These submissions were rejected.

It is now expected that the Constitutional Court will deliberate on similar issues in relation to separate cases and it is hoped will issue decisions which will have a positive effect on the CHD cases prior to the next hearing scheduled for 13th May 2015.

CHD has requested that further lawyers, journalists and human rights activists attend future hearings, as they can see that the Turkish authorities are aware of the unwanted international attention that these cases are attracting.

We encourage all our members to follow the case of the CHD lawyers and attend in solidarity with these lawyers at the next hearing in Istanbul.

For more information about being part of future delegations, please contact internationalcommittee@haldane.org.

For further information regarding the CHD please also visit www.eldh.eu and www.iadllaw.org.

Carlos Orjuela is a solicitor practicing in criminal law and a member of the Haldane Society’s executive committee.

Socialist Lawyer February 2015
What remains is a document about the consequences of the last attack on the Gaza Strip in 2014. These photos were taken during the last days of the war and the first week of the cease fire.
Eduardo Soteras Jalil is a freelance documentary photographer. He is a founding member of the Activestills collective and a creator of ActiveVision, an organisation dedicated to participatory photography and video. His work and photography can be viewed at www.eduardosoteras.com.
Left: A man stares at the remains of the Ministry of Finance building in central Gaza City.
Right: Detail of the computer screens at the security office of the electrical plant of Gaza. The photo used as a desktop image is an image of the bombing at the plant during the attacks.

Left: The El Abed family posing at the hut of an UNRWA school in Tel el Hawa. Mr Khaled Khalil El Abed (49, on the right) is a welder. He lost both his workshop and his three floor house during the attacks.

Right: Details of the remains of the Italian compound tower, bombed during the last days of the attacks.
Left: A boy, seen through a net, carrying water on a street of Gaza.

Right: Naddar Hayyela, 30-year-old father of eight children, holding his newborn daughter Gaza, who was born during the attacks. Following the start of the attacks Mr Hayyela and his family had to look for shelter in an UNRWA school. They are originally from Shujaia.

Internally displaced children in the surroundings of the UNRWA school where they are sheltered, in the Tel el Hawa neighbourhood, Gaza City.
The recent developments in the Middle East have seen western powers slowly realigning their allegiances with talk of ‘normalising’ relations with Iran. At the same time the Iranian workers who protest against poor working conditions, pay and for the right to organise continue to suffer repression at the hands of the regime and exploitation by the Iranian State and private employers.

As a matter of Iranian law it is not illegal to organise trade unions in Iran – although officially sanctioned State-run unions are used to repress workers’ struggles. At the same time, workers organising independent unions face harassment, repression and are often jailed for lengthy periods charged with ‘...acting against national security by establishing or membership of groups opposed to the system’ and ‘spreading propaganda against the system’. Once in jail union activists are often denied a place on a prison wing for political prisoners. Torture is commonplace as is denial of medication or treatment for injuries sustained from torture.

Iran is a State party to the International Covenant on Civil and Political Rights, of which Article 22 (1) states: ‘Everyone shall have the right to form and join trade unions for the protection of his interests’. Iran is also a State party to the International Covenant on Economic, Social and Cultural Rights, Article 8 of which guarantees the ‘right of everyone to form trade unions and join the trade union of his choice’. Yet Iran repeatedly attacks, imprisons or intimidates those organising independent trade unions.

Iran has ratified five of the eight core conventions of the International Labour Organisation (ILO); it has not however ratified C87 (Freedom of Association and Protection of the Right to Organise Convention), C98 (Right to Organise and Collective Bargaining Convention) or C138 (Minimum Age Convention). The ILO states that for the core conventions ‘all members, even if they have not ratified the conventions in question, have an obligation arising from the very fact of membership in the organisation to respect, to promote and to realise, in good faith and in accordance with the constitution, the principles concerning the fundamental rights which are the subject of those conventions’. The ILO provides cover for Iran by allowing it to remain an active participant of ILO activities, while it continues not to even ‘work towards’ allowing workers to form independent unions.

We outline below the plight of three individuals. Their cases highlight the repression by the Iranian State against workers’ representatives and solidarity action.

**Free Shahrokh and Reza**
Shahrokh Zamani has been imprisoned in Iran since January 2012. He is sentenced to 11 years in prison. He is a member and activist with the Paint Workers’ Union of Tehran. In prison he has been tortured, denied medication and denied visitors. Shahrokh has been on hunger strike twice during his time in prison which has left him with persistent health problems.

Reza Shahabi has been in prison since June 2010. He is sentenced to six years. He is the Treasurer and Executive Board member of the Tehran Bus Workers’ Union. In prison he has been tortured, denied medical treatment and has developed serious back, neck, hip and other health problems as a result of being tortured. Reza has also been on hunger strike twice in protest at his prison conditions, which has also affected his health. Reza was finally transferred to a secure hospital ward for treatment in September 2014 and has had the first of the operations he needs.

**Free Behnam Ebrahimzadeh**
Behnam Ebrahimzadeh is an imprisoned labour and children’s rights activist and a member of the Coordinating Committee to Help Form Workers’ Organisations in Iran.

He was coming towards the end of one prison sentence but is now facing a new term of imprisonment.

Currently he is in an Iranian prison having already served four and a half years of a five year sentence. While he is serving his sentence his 14-year old son is under treatment for leukemia, which is adding additional pressure to him.

He was arrested by security forces on 12th June 2010 and was sentenced to 20 years imprisonment by the Revolutionary Court for threatening national security for organising workers’ protests. Later an appeal court reduced his sentence to five years imprisonment. Last year he went on hunger strike to demand a transfer back to a medical wing of Evin prison in north Tehran and to receive medical treatment for his longstanding health problems.

During this time his home was searched in order for the Ministry of Intelligence to open a new case against him. Subsequently on 29th December 2014, Behnam was tried in branch 15 of the Revolutionary Court in Tehran, presided over by Judge Salavati, on new charges of communicating, from prison, with Ahmad Shahid (the United Nations Special Rapporteur on the human rights situation in the Islamic Republic of Iran) and with a political organisation. Behnam was sentenced to a further nine and a half years imprisonment. This is something that needs to be vigorously protested.

We call all lawyers, socialists, trade unionists, workers’ associations and political organisations inside and outside Iran to give practical backing and efforts to attract international support for Behnam. We call for this latest conviction to be overturned and Behnam to be released.

Please send protest letters to the Iranian government leaders and Iranian judicial services at the following addresses:

larjani@pm.ir
rouhani@csrc.ir
larijani@ipm.ir
info@leader.ir
info@judiciary.ir
With copies to karzarpk@gmail.com

For more information visit
www.karzarpk.com (Campaign in Support of the Workers of Iran) and www.iwsn.org/
You can sign the change.org petition for the release of Shahrokh and Reza at http://chng.it/13nMuv and you can get involved in the campaign for Shahrokh and Reza by emailing freesahrokh@gmail.com.

Paul Heron is a solicitor at Public Interest Lawyers and a member of the Haldane Society’s Executive Committee.
Colombia

This is the text of a letter from Haldane about Colombian activist Liliany Obando

To: National Penitentiary and Incarceration Institute (Inpec), Dr. Ana Sofia Hidalgo Alvarado, Director, Bogotá Women’s Prison – Buen Pastor, Carretera 58 No. 80 – 95, Entre Rios District, Tel. (57) (1) 630 77 24 – 630 20 37, E-mail: direccion.rmbogota@inpec.gov.co and Dr. Debora Useche, Chief Judicial Office, Bogotá Women’s Prison, Carretera 58 No. 80 – 95, Entre Rios District, Tel. 57 (1) 6600771 – 3111626, E-mail: juridica.rmbogota@inpec.gov.co

In reference to case of: Liliany Patricia Obando Villota, C.C. 30.7345.041

Concerning: Favourable resolution of petition for Conditional Liberty

I, Michael Mansfield QC, in my capacity as President of the Haldane Society of Socialist Lawyers have become familiar through her legal team and through various human rights NGOs, both national and international, of the situation of the defender of human rights Liliany Patricia Obando Villota. She remains deprived of her freedom in arbitrary fashion even though she has completed three fifths of the sentence imposed on her and thereby has gained the right to enjoy ‘conditional liberty’, or parole.

I am concerned that:

Since August 2014, the citizen’s lawyer and she herself have petitioned the ‘Seventh Court of Implementation of Penalties and Security Measures’ asking that she be granted conditional liberty.

The Seventh Court for Implementation of Penalties and Security Measures, on at least three occasions, has required that the Office of Women’s Imprisonment in Bogotá provide documentation that, according to Colombian penal legislation, is necessary for such liberty to be granted.

The Tenth Civil Circuit Court, in the Tutela decision of 28th October 2014 ordered that within a term of ten days a ‘clear, precise, and thorough’ response be made regarding the aforementioned situation. It referred to the fact that the request had been ignored and that a commitment was made to accomplish the foregoing. Nevertheless, that commitment has only been fulfilled partially. Your office sent material dated 23rd – 24th December 2014 that contained part of the documentation mentioned above, but still you refuse to send a Favourable Resolution, one that would take into consideration the time that citizen Liliany Obando was confined in that establishment as a matter of Preventative Detention; that is to say, from 8th August 2008 to the date of her release on Provisional Liberty, 1st March 2012. That is the essential information required for Citizen Liliany Obando to be granted Conditional Liberty.

Article 471 of the Code of Criminal Procedure establishes that:

‘A sentenced person found to be in circumstances anticipated in the Criminal Code may seek conditional liberty from the Judge of Implementation of Penalties and Security Measures as an adjunct to a favourable resolution by the disciplinary council, or lacking that, by the director of the respective prison establishment.’

Take into account furthermore that the aforementioned petition has been up in your office since August 2014.

At the time of this petition, it observes with much concern the persistent and systematic way that the rights of due process of the aforementioned citizen have been violated. She finds herself under house arrest since 5th August 2014, as ordered by the Ninth criminal court of the Bogotá Special Circuit and confirmed by the Bogotá Superior Tribunal – the criminal division – and executed by the Seventh Court of Implementation of Penalties and Security Measures. It is a situation with which you are quite familiar.

It is clear now, with the facts given here, that your office has not sent all the required documentation for Conditional Liberty. Not only is the right to freedom, personal integrity, due process and a trial accepted as being violated, but such a failing skirts norms of the criminal statute. One such is Fraudulent Judicial Resolution, as established under Article 454. Its text reads: ‘one in any way evading fulfillment of an obligation imposed under Judicial Resolution will incur imprisonment for one to four years and a fine of from five to 50 times the current minimum salary.’

In regard to the foregoing, it also takes on possible characteristics of behaviour subject to discipline as established under Article 27 of Law 734 of 2001, the Unified Disciplinary Code.

This may be the occasion to remind you that the honourable Constitutional Court approximately 14 years ago declared, through Ruling T-153/98, that there exists in Colombian prisons ‘a state of unconstitutional affairs’. It results from a series of factors that violate and adversely affect human rights and human dignity of those persons deprived of their liberty. In homage to rules and basic principles governing prison and penitentiary systems at the international level, these circumstances must be ended.

It is likewise necessary for you to recall your duty to honour decisions of the judges of the Republic under penalty of incurring responsibilities of a disciplinary and criminal nature through your non-observance.

On account of all of this, I lend support to the petition various personalities and prisoner support organisations have sent to your office, specifically the one demanding that the document on a Favourable Resolution be sent to the competent judge. That document is necessary in order to fulfill requirements through which the aforementioned citizen may be granted Conditional Liberty.

Yours sincerely,

Michael Mansfield QC, President, Haldane Society of Socialist Lawyers
Paul Singer is one of the USA’s richest billionaires, owner of Elliott Associates and its Cayman Island ”vehicle” NML. He financially backed Mitt Romney in the 2012 presidential election, and is, says Fortune magazine, ‘a passionate defender of the 1 per cent’.

His speciality is buying up distressed sovereign debt (bonds) dirt cheap, and then, through ‘vulture funds’ like NML, relentlessly litigating to enforce judgments for the face value of the original bonds, plus compound interest. This usurious outcome is only possible because states and their usually poor peoples cannot – unlike companies and individuals – go bankrupt.

Argentina’s economy collapsed in 2001 owing largely to the foolish policy of tying the peso one-to-one to the US dollar, with full convertibility. With IMF support, it borrowed large sums at ever-increasing interest rates to defend dollar parity – to no avail. GDP fell 25 per cent and the peso’s value with it. External debts were payable in dollars. Unable to pay, in 2002 Argentina defaulted.

Since 2005, Argentina has paid exchange bond-holders their interest as and when due. No question. Until, that is, last month when it ‘defaulted’ again – thanks entirely to decisions by the US courts (the original bonds give the New York courts jurisdiction), which give extraordinary preference to Singer’s financial interests. How come?

Aha, pari passu!

NML long ago obtained judgment against Argentina for the full sum due under the original bonds. This was not in dispute. But how to enforce? That was the vultures’ problem. Try as they might, they could not lay hands on juicy Argentine assets. Finally, in 2012, they hit upon the pari passu (equal step) clause in the bond contract, which states: ‘the payment obligations of the Republic under the securities shall at all times rank at least equally with all its other present and future external indebtedness.’

New York Judge Griesa interpreted this – in a way no other court had done – as meaning that Argentina was obliged to pay NML at the same time as it paid exchange bond-holders. This reversed the international bond markets’ understanding of the law, and strengthened vultures’ hands everywhere.

But Judge Griesa went further, and in a truly partial decision, made an injunction forbidding Argentina from paying a cent of interest to exchange bond-holders, unless at the same time it paid NML the entirety of principal and rolled-up interest under the original bonds, a staggering 1.5 billion US dollars.

Judge discriminates in favour of Singer
Far from providing equal treatment between the sets of bond-holders, the judge did the precise opposite – patently discriminating in favour of Singer and against the exchange bond-holders.

This was not required by law. An injunction is a discretionary remedy. The judge did not have to make an order, or if he did make one, he could have ordered Argentina to pay NML in the same reduced proportion, and extended timeline, as the exchange bond-holders. But Judge Griesa’s moral compass is so well-attuned to Singer’s that he openly defended this unequal treatment.

The story does not end there. Argentina has refused on principle to pay the vulture funds. It deposited interest due to exchange bond-holders in the Buenos Aires branch of the US bank acting as trustee for the innocent exchange bond-holders which is barred by Judge Griesa from distributing it to them.

The ’contempt’ proceedings
This has led to another absurd episode in an increasingly surreal legal drama. On 21st August 2014, NML’s counsel applied to Judge Griesa to find Argentina in contempt, and to
Supreme Court, however, made its own
to accept a further appeal by Argentina. The
Appeals Court and the Supreme Court refused
judiciary. His injunction was upheld by the
Judge Griesa is not a crazy outlier in today's US
Don't trust fairness of US courts
Argentina has appealed against the contempt
impose. NML are seeking $50,000 per day.
writing, he had yet to decide on the penalty to
parliament to pass legislation. At the time of
parts of' his injunction, by getting its elected
 próposals of the President of the country, that's
'mechanism to pay the exchange bond-holders interest payments in Argentina and outside the control and jurisdiction of this court.'
This is imperial overreach in the guise of 'law' – condemning a sovereign State for introducing legislation into its elected parliament to authorise it to pay money due to creditors.
Judge Griesa, for his part, stated that the President's announcement was
'invalid, illegal, and in violation of current court orders and injunctions. To nullify that proposal of the President of the country, that's the measure that is really required this afternoon.'
But aware perhaps of the quagmire he was invited to set foot in, he declined on that occasion to find Argentina in contempt. NML refused to let go, and on 29th September 2014, Judge Griesa finally held that Argentina was in contempt of his court stating: 'the problem is that the republic of Argentina has been and is now taking steps in an attempt to evade critical parts of' his injunction, by getting its elected parliament to pass legislation. At the time of writing, he had yet to decide on the penalty to impose. NML are seeking $50,000 per day. Argentina has appealed against the contempt finding.

Don't trust fairness of US courts
Judge Griesa is not a crazy outlier in today’s US judiciary. His injunction was upheld by the Appeals Court and the Supreme Court refused to accept a further appeal by Argentina. The Supreme Court, however, made its own
dubious decision in favour of NML on the interpretation of sovereign immunity, with transnational implications; the effect is to limit sovereign States’ protection from seizure of assets. The clever but extremely conservative Justice Scalia, appointed by President George W Bush, gave the majority decision. Justice Ruth Bader Ginsburg delivered a lone, legally persuasive, dissenting judgment. In Joseph Stiglitz’s recent words, ‘Sovereign borrowers will not – and should not – trust the fairness and competence of the US judiciary.’ (Project Syndicate, 7th August 2014)
Not so long ago, the US Supreme Court was widely respected internationally for its general adherence to norms of justice. No longer. The Argentina litigation demonstrates just how far the US courts – as well as the political system – have now been captured by the ideology of neoliberalism, and actively promote the interests of finance capital.
The need for a fair sovereign debt-resolution system
The sorry NML v Argentina saga highlights the pressing need for an internationally recognised system for resolving sovereign debt disputes, fairly balancing debtors’ and creditors’ interests. While new bond ‘collective action clauses’ are under discussion, such technical measures will not alone put an end to the ruthless politico-legal aggression of the vultures. In a letter to US Secretary of State John Kerry a day before the contempt finding, the government of Argentina recalled that its political organs are ‘subject only to the sovereignty of the people and the principles set forth in the Argentine constitution. In no case can they be questioned by the organs of any foreign State.’ Any breach by the US courts of this would be ‘an unlawful interference in the domestic affairs of the Argentine republic’.

International opposition to vultures grows
Meanwhile, international opposition to the US courts’ abuse of their powers is growing, with recent resolutions of the UN General Assembly and of the influential G77 + China group of States. The UN General Assembly called for a new legal framework for the restructuring of sovereign debts, which will also act as ‘a deterrent to disruptive litigation that creditors could engage in...’ Only 11 states voted against this motion, they include the USA, UK, Germany and Japan.
Similarly, the G77 in its Declaration of Santa Cruz (Bolivia) in June 2014 affirmed that:
‘Recent actions of vulture funds in international courts have revealed their highly speculative nature. Such funds pose a risk to all future debt-restructuring processes, both for developing and developed countries’.
It stressed: ‘the importance of not allowing vulture funds to paralyse the debt-restructuring efforts of developing countries’.

US courts’ overreach
At a time when economic supremacy is slow but surely seeping away from the USA, the US courts have decided to claim ever greater extra-territorial jurisdiction, not only over individuals and companies, but also over other sovereign States. This legal ‘land-grab’ is also destined to fail. Perhaps, in due course, we will have cause to thank Judge Griesa for having so patently and publicly contorted legal principles in the service of Paul Singer’s interests.

Jeremy Smith is Co-Director of PRIME Economics and a Vice-President of the Haldane Society of Socialist Lawyers. This article was first published on the website of Policy Research in Macroeconomics (PRIME www.primeeconomics.org ). A slightly edited version was published in The Morning Star newspaper on 13th October 2014.
Access denied

Recent Government reforms to legal aid, writes Emma Scott, are a direct attack on women’s access to justice and on fundamental rights and obligations.
Women’s ability to obtain and benefit from their family law rights and remedies is directly dependent upon their ability to access legal information, advice and representation. Women experiencing violence need advice on how they can protect themselves from violence by seeking non-molestation or occupation orders; how to divide joint assets and debts following relationship breakdown; deal with the family home; make arrangements for children and organise child maintenance.

Rights of Women believes that the provision of legal advice and representation is a fundamental part of a woman’s right to a fair trial under Article 6 of the European Convention on Human Rights. It is enshrined in the United Kingdom’s commitment to the provision of free or low-cost legal aid when it signed the Beijing Declaration, adopting the Beijing Platform for Action in 1995. Yet the recent reforms to the legal aid scheme brought in by the Government are a direct attack on women’s access to justice and on those fundamental rights and obligations.

Since the publication of the Legal Aid Sentencing and Punishment of Offenders Bill in 2010, Rights of Women together with other organisations working to prevent violence against women, has campaigned hard to protect access to justice for women and in particular to hold the Government to their promise that legal aid for family law cases would not be lost to those affected by domestic violence.

During our campaign we worked alongside the wider campaigns to protect the legal aid scheme from the deep cuts proposed by the Government led by the Justice Alliance and the Law Society’s Sound off for Justice campaign. We worked closely with parliamentarians in both houses, gave evidence to the House of Commons Select Committee on Legal Aid, met with Ministers and civil servants from the Ministry of Justice and protested outside Parliament.

Our campaign achieved important victories during the passage of the Bill. Our lobbying ensured that the cross Government definition of domestic violence was included in the Act and the broadening of the domestic violence evidence gateway to include evidence including referral to a multi-agency risk assessment conference and reports from health professionals.

However, despite these important victories, the cuts to the legal aid scheme introduced in April 2013 have had a devastating impact on the women who contact our services and our partner organisations.

A year after the implementation of the Legal Aid Sentencing and Punishment of Offenders Act (LASPO) and the new domestic violence evidence gateway criteria for family law legal aid, our research demonstrated that the legal aid regulations were restricting access to legal advice and representation to women affected by domestic violence and denying access to safety and justice to the very women whom the Government expressly sought to protect from the removal of family law from the scope of the legal aid scheme.

Published in March 2014, our research report *Evidencing domestic violence: a year on* demonstrated the very significant barriers which women affected by violence experience in accessing family law legal aid. Our survey of women who had experienced or were experiencing domestic violence found that 43 per cent did not have the prescribed forms of evidence to access family law legal aid. Of those who did, 23 per cent had to wait longer than two weeks to get copies of the evidence. Our survey also revealed that finding a legal aid solicitor was becoming harder with 33 per cent of women having to travel between five and 15 miles to find a legal aid solicitor and 13 per cent having to travel more than 15 miles.
Most shocking to us was that 46.5 per cent of women took no action in relation to their family law problem as a result of not being able to apply for legal aid, leaving them unable to escape from violent relationships or rebuild their and their children’s lives after separation.

Women we spoke to gave really powerful testimony to the impact that not being eligible for advice and representation was having. The following are two such examples:

‘I want to apply for a divorce but have been told it will be complex so I need a solicitor but I cannot afford to get one. I want to sort out child contact as my kids are at risk from my husband, but cannot afford to do that. I want to get a court order for payments so my children do not suffer because I cannot afford clothing for them, but without legal aid I cannot do this. This is having a detrimental impact on the children and myself. I am living in limbo because I cannot afford to do anything about it.’

‘I am unable to keep my children safe because I was financially abused by my husband to the point where I have no money to pay a solicitor properly. The changes to legal aid have ensured that my husband is able to financially abuse me into a position I cannot escape from and he has the full backing of the State.’

Using the evidence we had gathered we were able to successfully lobby the Ministry of Justice to widen the evidence criteria and welcomed amendments and additions to the evidence criteria introduced in April 2014. These amendments to the legal aid regulations enabled women with other forms of evidence, including evidence that their perpetrator was on police bail and evidence of referral to a domestic violence support organisation by a health professional, to access family law legal aid.

However, fundamental problems remain with the domestic violence evidence gateway. The strict evidence requirements in particular make it difficult, if not impossible, for women to evidence emotional and psychological abuse and the two year time limit on most of the evidence simply does not reflect the reality of the ongoing risk of violence women and children experience.

Our further research on the amended regulations, *Evidencing domestic violence: reviewing the amended regulations*, indicates that although the amendments and additions to the evidence criteria have made a very slight difference to women’s ability to access family law legal aid, the fact that 38 per cent of women remain unable to evidence domestic violence in accordance with the amended evidence criteria demonstrates that it remains far too restrictive. Again women talked very graphically about the impact of restricting access to legal aid, for example:

‘I’m in a legal “black hole”. I don’t qualify for legal aid and cannot afford a solicitor. So after years of sexual and emotional abuse I am left to deal with my son’s father (the perpetrator) alone. How can this be right? Where do I go?’

For this reason, in May 2014, we issued judicial review proceedings against the Secretary of State for Justice. Represented by the Public Law Project and supported by the Law Society, our claim specifically challenged the lawfulness of regulation 33 of the Civil Legal Aid (Procedure) Regulations 2012 made under section 12 of LASPO. We argued that the evidence requirements set out in regulation 33 are *ultra vires* as they substantially narrow the statutory definition of domestic violence in LASPO. The regulations preclude women who experience forms of violence set out in the definition, such as financial and other forms of psychological abuse, which are more difficult or impossible to evidence and by setting the arbitrary two year time limits on the validity of most of the forms of evidence.

Permission to bring the claim was granted by Mr Justice Burnett on 19th September 2014 and a full hearing took place before Lord Justice Fulford and Mrs Justice Bennett on 12th December 2014. Judgment was given on 22nd January 2015 (Rights of Women v The Lord Chancellor and Secretary of State for Justice [2015] EWHC 35 (Admin)).

In a devastating judgement for survivors of domestic violence Mrs Justice Lang dismissed our application. However, while finding that the Lord Chancellor had not exceeded his powers under LASPO in creating the evidence criteria set out in regulation 33 she acknowledged the weight of evidence presented that the criteria creates a bar to family law legal aid to those affected by domestic violence:

‘I am satisfied that the Claimant has shown a good arguable case that some victims of serious domestic violence, who are genuinely in need of legal aid, cannot fulfill the requirements of regulation 33. Typically, victims are excluded in circumstances where serious domestic violence led to a complete break down of the relationship, and then, more than 24 months later, there is an application by the perpetrator of the violence for contact with a child of the family, or ongoing contact arrangements break down. By the date of application for legal aid, their evidence of domestic violence is older than 24 months, but they remain fearful of their former partner.’

Internationally, criticism of the legal aid reforms has also been vociferous. The Committee on the Elimination of Discrimination against Women (CEDAW), in its seventh periodic report of the UK, expressed concern about LASPO saying that it ‘unduly restricts women’s access to legal aid’. CEDAW urged the UK to ‘[e]nsure effective access by women to courts and tribunals, in particular women victims of violence’ and to ‘[c]ontinuously assess the impact of the reforms to legal aid on the protection of women’s rights’. So concerned was the Committee that it has requested the UK to report on action taken on these concerns in 2015.

Without legal aid, women affected by domestic violence feel unable to access the kinds of legal remedies which enable them to safely exit violent relationships. We pursued the judicial review challenge on behalf of those women in order to hold the Government to account on their promise to continue to make family law legal aid available to victims of domestic violence. We intend to appeal the court’s decision and will continue to campaign to ensure that women affected by violence have access to safety and justice.

For more information about Rights of Women’s case and the campaign please visit www.rightsofwomen.org.uk.

Emma Scott is the Director of Rights of Women.
Obituary

Michael Fisher 1946–2015

Solicitor Michael Fisher, who died on 7th January 2015, was one of the pioneers of legal aid practice and was the founding partner of two significant and influential legal aid firms: Fisher Meredith and Christian Fisher (later Christian Khan), writes Margaret Gordon. Throughout his long career he was always committed to providing high quality representation to individuals so they were equipped to assert their rights against the State.

Although Michael would probably not have described himself as a campaigning lawyer, he was a friend and mentor to many longstanding Haldane Society activists. He acted for many defendants who faced political prosecutions and was totally committed to ensuring that his clients, however marginalised and unpopular, received equal treatment from the courts.

Michael trained as a lawyer in the City but shortly after qualification decided that commercial practice did not suit him and changed direction to represent the poor and disadvantaged.

He established the Waterloo Legal Advice Centre with Helena Kennedy QC, who recalls that criminal defence lawyers were regarded with suspicion and hostility not just by the police but by the courts.

Longstanding Haldane Society executive committee member Richard Harvey recalls: ‘Michael’s passion for justice was, if possible, even deeper than his passions for music and Chelsea football club. We first met at the Waterloo Legal Advice Centre where, with Helena Kennedy, we were weekly volunteers in the early 1970s. Starting out as a wet-behind-the-ears criminal barrister, I was often sent to court with a bare back sheet and little or no information about the case, just “instructions” to do my best for the hapless client. By contrast a brief from Michael always had a thorough analysis of the strengths and weaknesses of the case. He cared deeply about his clients and focused foremost on their humanity, whatever their alleged criminality.’

In 1975 Michael founded Fisher Meredith with Eileen Meredith (later Pembridge). It was the days before the Police and Criminal Evidence Act 1984 had been introduced and solicitors had no right of access to suspects who were held in police custody. Michael and his fellow practitioners sometimes waited all night to access clients in custody and if denied that access their only remedy was habeas corpus.

In 1985, Michael founded his second law firm Christian Fisher with Haldane Society Vice President Louise Christian. In its early days the firm was based in four rooms in Covent Garden next to the Royal Opera House and not far from the now closed Bow Street Magistrates’ Court. The firm started with two partners, one secretary, one trainee and had just two cases. Both cases, one involving the Brighton bombing and the other the civil defence of 49 left-wing Liverpool councillors who were facing a surcharge for refusing to set a ‘cuts’ driven budget, concerned issues that went right to the heart of the tensions in Thatcher’s Britain. The firm developed into a leading human rights solicitors’ practice. Michael left the firm in 2002 to become a sole practitioner.

Michael’s most important work centred on defending IRA suspects. He acted among others for the Brighton bombers and for Paul Hill, one of the Guildford Four whose cases were overturned on appeal.

These cases have become notorious for the way in which police and prosecutors rode rough shod over defendants’ rights to secure convictions and yet conviction after conviction was to be overturned in the Court of Appeal after long, tenacious campaigns. The tenacity of Michael and other lawyers in these cases lead to legislation and guidelines governing the giving of confessions, disclosure and collection of forensic evidence.

Helena Kennedy QC eloquently described his work in the obituary she wrote about Michael in The Guardian: ‘Through a friend, Mike met Bernadette Devlin, the Northern Irish civil rights campaigner, when she was briefly an MP. In 1975, Bernadette contacted Mike asking him to help a young man called Jimmy Kelly, who had been arrested and taken to Southampton on charges of possessing explosives. So began Mike’s long experience of doing Irish cases. His reputation as an assiduous, dedicated and highly effective lawyer spread and, through the 1970s and into the 80s, he became the lawyer Irish families contacted when one of their own was in trouble.’

One of Michael’s longest cases was the appeal of Nicholas Mullen. Counsel in the case Campbell Lloyd-Jacob recalls: ‘He had an instinct for hunting out and pursuing good points which had eluded everyone else. Nicholas Mullen had been convicted of conspiracy to cause explosions (helping an IRA plot) and had been represented by other lawyers ten years before. Mr Mullen complained that he was brought into the country from Zimbabwe illegally, kidnapped by the security services to get him tried in this country. He’d tried to get his lawyers to run an abuse of process argument at his trial but they had refused. He was convicted and sentenced to a long custodial sentence. Mike knew there was something in this point and we ran it ten years later. We were initially refused legal aid and permission to go to the Court of Appeal and we had no material save for an assertion and some scraps of Zimbabwean law but in the end Mike’s hunch was completely vindicated. We got permission on a hearing before the full court, the Crown served a document setting out exactly what we needed and the Court of Appeal overturned Mr Mullen’s conviction.’

One of Michael’s great qualities was his inexhaustible curiosity about people whether they were colleagues or clients and understanding what motivated them. Many significant and successful lawyers were his protégés and became his friends. One of them, campaigner Matt Foot, writes ‘Mike Fisher had the best qualities for a legal aid lawyer, shrewdness, modesty, humour and determination. He took on cases for the underdog. The unpopular cases. He helped people through the turmoil. His close friend barrister Pam Rose has written that: ‘The legal profession has lost a champion who fought consistently throughout his too short life for justice for his clients. He never considered anyone to be less deserving of his attention or to be ineligible for the best legal advice and representation.’

Michael was the son of two musicians and had life long passions for music and his football team Chelsea.

He is survived by his wife Florence Bousquet, his children Maxim and Eva and his sister Barbara.

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Margaret Gordon is a partner at Imran Khan and Partners, incorporating Christian Khan Solicitors
In 2012 the UK introduced a visa regime that does not permit domestic workers that arrive in the country accompanying an employer to change employer, even if they have been exploited or abused. The workers’ residency status is lawful for as long as the employer with whom they entered employs them, to a maximum of six months. The period of six months is not renewable. Domestic workers are generally described as a vulnerable group in the literature, because they are most of the times migrants, they work in the privacy of the employers’ home, they perform a job that is undervalued and underpaid, but also because they are often excluded from labour protection legislation. The UK overseas domestic worker visa has been criticised for taking this vulnerability to an extreme. It should not come as a surprise that academics and NGOs have argued that the overseas domestic worker (ODW) visa leads to situations that can be described as ‘slavery’. Between 15,000 and 16,000 people arrive each year in the UK with an ODW visa, but the Home Office does not provide any further information.

Against this background, I conducted a qualitative study, a series of semi-structured interviews of overseas domestic workers under the 2012 visa. This was a first step in an attempt to explore how this vulnerable and difficult (for researchers) to reach group of workers experience the visa in practice, to examine if any of them are now undocumented because they escaped their employer, and to assess what light this empirical exploration sheds in the classification of the visa as one of enslavement. I conducted some initial interviews with 24 migrant live-in domestic workers. I approached the interviewees through Kalayaan, the main UK NGO working on the rights of migrant domestic workers, from its database of registered workers, and conducted the interviews in the offices of the organisation with the help of interpreters, when needed.

The purpose of this empirical exploration was to try to understand what may be some of the long-term effects of the visa on those that may have escaped their employers.

All of the interviewees in the study were women and almost all of them were migrant workers already before coming to the UK. Originally, they come from countries in Southeast Asia (such as the Philippines or Indonesia), South Asia (India) or North Africa, and they migrated to work for employers in the Middle East or North Africa. They arrived in the UK from the Middle East or North Africa. Almost all domestic workers interviewed said that they had dependents in their country of origin, and migrated in the first place in order to support their dependents.

**Work and life before and upon arrival**

The interviewees said that their working conditions before arriving in the UK were very poor. Their tasks covered every aspect of housework: caring for children or elderly people, cleaning, shopping, cooking and serving. Their salaries were reported to be as low as £50 per month and to generally range between £100 to £250 per month. They reported working between 12 and 20 hours a day, depending on the needs of the children of the families or depending on when the employers needed them more generally. Almost all the workers interviewed said that they were not allowed out of the house unaccompanied. They also explained that they worked every day of the week, with no day off. As these workers are live-in domestic workers, their home is in the employers’ household, which is also their own workplace. Some of the interviewees said that they had their own room, but others said that they had to share a room with the children of the family. One interviewee said that she was staying in the storage room in the employers’ house.

Interviewees reported psychological and physical abuse. Some interviewees recounted that the employers shouted at them and some also reported violent behaviour, such as slapping. One interviewee said: ‘If I did something wrong with my work or if the baby kept crying and I could not handle it, they hit me’. Some interviewees reported being sexually harassed or assaulted by their employers. One of the interviewees said that she had attempted to commit suicide because of the harassment that she suffered.

The Government suggests that some safeguards are in place before and upon arrival, in order to protect these workers, such as an employment contract before arrival and information on labour rights at the Embassy or at the airport. However, the interviewees reported that these were either not implemented in practice or were ineffective. The interviewees said that they did not know about the details of their visa prior to arrival in the UK. They also said that they had extremely vague knowledge of UK labour rights, such as a minimum wage or maximum working time. For reasons explained below, even if these safeguards were in place, though, they would not provide sufficient protection to domestic workers.

**Work and life after arrival**

Some of the interviewees explained that they did not want to come to the UK, but that the employers required them to do so. One of the workers said:

‘The UK Government want me to come here. Because my son [for whom they wanted me to work in the UK] is too… I don’t like him… his attitude. They forced me to come here.’

After arrival in the UK, the interviewees reported that their working conditions did not improve. To the contrary, some interviewees said that their living and working conditions deteriorated. Sometimes they said that they stayed in less spacious accommodation (in hotel rooms that they shared with the employers) than in the country from where they arrived. One of the interviewees recounted that in the UK she slept in the bathroom, on the floor, because of lack of space, which made the employment relationship more tense than before coming to the UK, as she explained.

Interviewees said that no pay increase took place while in the UK even if the employers had said to the workers or to the authorities prior to arrival that they would pay the worker a higher salary while in the UK. In fact, some of those interviewed said that they were not paid at all while in the UK. The workers interviewed said that their hours of work remained extremely high and that they were still not

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**‘Overseas Domestic Workers’: Britain’s slaves**

**Virginia Mantouvalou**

writes on her research talking to a group of underpaid, undervalued and mistreated workers, right here in the UK in the 21st century.
Migrant domestic workers rally in Westminster on 10th December 2014 on International Human Rights Day to oppose the return of slavery in the UK, supported by Unite the union.

Picture: Jess Hurd / reportdigital.co.uk

Bose

came in the UK from Nigeria with her employer via overseas domestic worker visa route.

“For four years I was locked in the household and received no salary.

“Every time my employer left the house, they would lock me inside.”

www.unitetheunion.org
www.j4dw.org

Reema

Entered the UK from Qatar under Domestic worker visa in a private household.

“I was not paid for three months and no day off. I was only allowed to eat once a day with no rest period during my 20 hour shift.”

www.unitetheunion.org
www.j4dw.org

Yarni

Was brought in by her Abu Dhabi employer.

“I wasn’t given any proper food and only a sandwich for 22 hours of work in three houses owned by my employer and their family.

“My employers know they can abuse the law and each time I was promised a salary but I never got paid.”

www.unitetheunion.org
www.j4dw.org
Dependency, fear and intimidation

According to the interviewees, while in the UK, the employers still kept the workers’ passports, and sometimes threatened them that if they escape, the police will arrest, imprison and deport them. One of the workers interviewed also said that she received death threats from the employer.

“I can kill you and throw you into the sea. It is an ocean there”. And I was scared. It was the two of us in his flat. I was scared about what would happen to me. What would I really do? I didn’t know.’

The interviewees appeared to be very fearful when discussing their employment experience with me. They expressed fear of abusive employers, fear of the authorities and fear of acting in any way that may be considered illegal. Some interviewees also expressed the belief that the employers remain unaccountable because they are very powerful or because there is no legal route to hold them to account, as they have been informed when they are in the UK. Despite the abuse and exploitation reported by the interviewees, most of them stated that they have not been or would not go to the police or immigration authorities. Even though they said that they miss their loved ones who are in their country of origin, they explained that they fear deportation because of their economic need, which led them to migrate in the first place.

Escape and being undocumented

Almost all the domestic workers interviewed are now undocumented for periods ranging from a few months to two years, because they escaped their employers. The workers that ran away said that the escape was not part of a plan. It was a sudden decision:

‘I decided to leave them suddenly because I couldn’t handle living with them any more… I left without anywhere to go and then I met someone outside. I did not go to the police, because I did not know how to go to the police.’

The interviewees said that they still did not have their passports when they escaped. One of the workers recounted that she asked her former employer to return her passport to her and the employer said that she had to pay £2,000 in order to have it.

The majority of the interviewees said that they only learned after they escaped that they had no right to remain in the country or work for a new employer. Some interviewees said that they believed that they would have more rights in the UK. One of them said, for example: ‘In Saudi Arabia I could not leave them. Here I could go anywhere and disappear because it is a country with more freedom’.

The workers interviewed said that they know that they are now undocumented and seemed embarrassed by their status. However, they said that they are driven underground: they explained that they do not want to return to their employers because of the abuse and exploitation that they suffered. Most of the interviewees said that they do not have a case pending in court against the former employers. They also said that they do not want to return to their country of origin either, because they have dependents to support who are in desperate economic need. They spoke about their needy children, spouses or parents in their country of origin.

After becoming undocumented in the UK, many of these workers said that they find part-time jobs for a few hours a week. They explained that the new employers sometimes know about their illegality, and are reluctant to hire them full-time as live-in domestic workers, so very few have full-time jobs. Some said that they found full-time work initially but were subsequently dismissed because of their legal status. Most of the interviewees therefore said that they have a couple of jobs every week, with different employers employing them for three to four hours a week. They explained that any income that they send to their families covers basic material needs like electricity, nutrition and education. The interviewees said that they have to work in order to support their dependents, and most of them said that they would like to have full-time jobs as live-in domestic workers, but they cannot find such jobs because they are undocumented.

The workers interviewed said that their hourly or weekly pay may be in accordance with the law (about £10 per hour), but that sometimes the new employers, knowing of the illegality, exploit them further by paying them below the minimum wage (£5 or £6 per hour), getting them to work very long hours or dismissing them without reason and with no compensation. Some of the workers said explicitly that they know that they are being exploited. One interviewee said, for example: ‘Sometimes if you have an interview and you tell [the prospective employers] that you don’t have papers, they take advantage of you and they give you a small salary.’

The longer-term implications of the visas that tie domestic workers to the employer in light of this empirical study, then, appear to involve the creation of a workforce that lives undocumented, underground, invisible and fearful, even more prone to exploitation than other domestic workers, or indeed the labour force as a whole.

Conclusion

The 2012 ODW visa that ties domestic workers to a particular employer has been criticised for leading to situations that are uncomfortably close to slavery, because of the degree of control that the employer exercises over the worker. It has also been argued that the visa may violate the prohibition of slavery, servitude, forced and compulsory labour under the European Convention on Human Rights. What this empirical study suggests is that workers are indeed objectified to a great degree through this regime, in a manner that is incompatible with liberal values. Almost three years after its enactment, the effect of the visa appears to be the creation of an extremely vulnerable workforce that stays in the UK undocumented and fearful, trapped in ongoing cycles of exploitation. It is to be hoped that the law will soon be changed and this type of visa will not be reintroduced whenever there is a surge in anti-immigration sentiment.

Virginia Mantouvalou is Reader in Human Rights and Labour Law and Co-Director of the Institute for Human Rights at University College London.

“While in the UK, the employers still kept the workers’ passports, and sometimes threatened them that if they escape, the police will arrest, imprison and deport them. One of the workers interviewed also said that she received death threats from the employer.”
More than about the closing of coal pits...

Still the Enemy Within
Directed by Owen Gower
Dartmouth Films (2014)

Last year marked the 30th anniversary of the start of the 1984 to 1985 miners’ strike. The continuing impact of the strike on public consciousness is evidenced in part by the significant number of television programmes, documentaries, short films and the feature film Pride produced last year which covered different stories from the strike. One such film, and in my opinion the most compelling and worthy of those that I have seen, is Owen Gower’s Still the Enemy Within.

Still the Enemy Within tells the story of the miners’ strike from the point of view of miners themselves; those who were on the front lines of the battle. This is one of the most engaging features of the film. Previous programmes and films about the strike have tended to focus on the role of the Government and union leadership, often portraying the strike as the machinations of Thatcher and her cabinet pitted against Arthur Scargill and the upper echelons of the NUM. Still the Enemy Within instead focuses on the experiences of those who actually stood on the picket lines: who fought battles with the police and struggling to survive in the face of Government attacks on welfare with the concerted effort to starve the miners back to work.

The film has received significant critical acclaim, winning the audience award at the Sheffield Documentary Film Festival last year, and receiving four star reviews in major national newspapers – including, ironically, The Mail on Sunday and the Daily Express which both took somewhat less supportive stances towards the miners at the time of strike.

The whole duration of the strike is covered in the film which brilliantly portrays the changing feelings and atmosphere felt at the time; from the elation and optimism of the first few weeks when many of the miners felt victory was assured, to the dark days of the 1984-85 winter when defeat appeared increasingly certain due to the failure of the TUC and other major unions to offer meaningful support to the isolated miners.

In addition to the accounts of the miners, the film is interspersed with archive footage and news reports from the time and is set to an energetic, contemporaneous soundtrack of ska, punk and folk which helps to transport the viewer back in time.

While the outcome of the strike inevitably puts a sombre tone to the closing stages, the film is incredibly inspiring and uplifting. The miners who share their stories are eloquent, passionate and political. What comes across from each of their accounts is their belief that they were fighting for something far bigger than themselves and that the strike was about more than the closing of coal pits. They were fighting for a better society. Their description of a time when trade union organisation and solidarity was something tangible and real is particularly inspiring for those of us who have been born later, in an era of significantly less trade union activism in Britain.

The film closes with a brief look at more recent campaigns and demonstrations, including a poignant message for today’s activists: the miners’ strike was a heavy defeat, but it was by no means the end of the matter – there is still more fighting to be done.

Michael Goold

For details of screenings in your area, go to: http://the-enemy-within.org.uk/events/

To order the DVD of Still the Enemy Within, go to: http://the-enemy-within.org.uk/product/pre-order-the-dvd/
‘More dangerous than nuclear weapons’?

Drones and Targeted Killing: Legal Moral and Geopolitical Issues
Edited by Marjorie Cohn; foreword by Archbishop Desmond Tutu
Olive Branch Press, 2015

Eighteen months ago, our Haldane Society comrade Kat Craig approached me on behalf of Reprieve to help draft a communication to the International Criminal Court (ICC) on the use of drone strikes in Afghanistan. Then, the legal literature on drones was sparse. Now, Marjorie Cohn’s new book Drones and Targeted Killing: Legal Moral and Geopolitical Issues makes the unanswerable case that targeted killing, off the battlefield, is illegal and unjustifiable.

As Professor Cohn and co-contributors show, while the administration of President George W Bush detained and tortured suspected terrorists, the administration of President Obama simply assassinates them. Even the CIA admits such killings are counter-productive. Drone strikes exacerbate the very threat their apologists claim they are intended to eliminate.

President Obama’s administration ‘has killed at least as many people in targeted killings as died on 9/11,’ writes Cohn. She quotes the US Council on Foreign Relations finding that, of the estimated 3,000 people killed by drones, ‘the vast majority were neither al-Qaeda nor Taliban leaders.’ ‘The White House claims ‘surgical precision’ for drone strikes. No need for ‘boots on the ground’ - or even for pilots in the air - since their deadly payloads can be launched from an armchair thousands of miles away.

But is it not the case that drones cause minimal ‘collateral damage’? It seems not. As Professor Cohn writes: ‘the use of drones in Afghanistan has caused 10 times more civilian deaths than manned fighter aircraft.’ The Obama administration has abandoned the Bush-era euphemism of ‘collateral damage’, frankly and frighteningly calling civilian casualties ‘bug splat’.

Perhaps nobody on this planet speaks with greater moral authority than Desmond Tutu. In a powerful foreword he excoriates US hypocrisy that acquiesces in a killer drone program so long as foreign suspects are killed, but demands judicial review when those targets are American citizens:

‘Do the United States and its people really want to tell humankind that we, like the slave Dred Scott in the 19th century, are not as human as you are? I cannot believe it.’

‘I used to say of apartheid that it dehumanised its perpetrators as much as, if not more than, its victims. Your response as a society to Osama bin Laden and his followers threatens to undermine your moral standards and your humanity.’

Cohn has enlisted 17 co-authors in this interdisciplinary collection. They include Jeanne Mirer, President of the International Association of Democratic Lawyers, Professor Richard Falk (former UN Special Rapporteur on Palestine), political activist Tom Hayden, Code Pink co-founder Medea Benjamin and Alice K. Ross of the Bureau of Investigative Journalism.

Jeanne Mirer, in calling drones ‘illegal at any speed’ writes: ‘The persons targeted are not charged with any crime, nor has any evidence against them been brought in a proper tribunal before they are placed on the “kill list”.’ While playing the role of judge, jury and executioner, ‘US leaders, in the name of fighting “terrorism”, are acting criminally, and are subject to prosecution before the International Criminal Court.’ Not an imminent prospect, as she readily concedes but it is always possible that, ‘perhaps someday they will be held to account by another country under the doctrine of universal jurisdiction.’

Princeton’s Professor Richard Falk is a veteran authority on international law. I have to admit that the title of his chapter: ‘Why drones are more dangerous than nuclear weapons,’ made me wonder for a second what he was smoking. But only for a second. He argues persuasively that the debate about drones ‘has been trivialised by being conducted mainly between those who would cast aside international law and those who stretch it to serve changing national security priorities of American foreign policy.’

In truth, it’s a phony debate, between people who do not care what happens in a world order reduced to a ‘global battlefield’ and where the consent of foreign governments is coerced by US military might. He rightly says that using State terror against non-State actors ‘makes war into a species of terror and tends toward making limits on force
More dangerous than nuclear weapons though? Well, consider this: ‘so far, at any rate, international law and world order have been able to figure out some regimes of constraint for nuclear weapons that have kept the peace, but [they] have not been able to do so for drones, and will be unlikely to do so as long as the logic of dirty wars is allowed to control the shaping of national security policy in the United States.’

When drafting Reprieve’s communication to the ICC Prosecutor, we found the research by Alice K. Ross of the Bureau of Investigative Journalism to be thorough and compelling. In her chapter on ‘Documenting Civilian Casualties’, she writes that: ‘Attempting to track and understand who dies in conflicts matters. Where deaths go uncounted, vital information about the human cost of a conflict is lost. Where civilian deaths and injuries go unacknowledged, the families of the dead are denied recognition of their losses, the prospect of compensation and the chance of holding anybody to account.’

Failing to recognise civilian casualties is bound to create deep-seated resentment in affected populations. In the UK we do not have to look further afield than the long-denied role of security forces in murdering innocent civilians in Northern Ireland. This is a subject Anne Cadwallader has been able to shed some light on in her book Lethal Allies. In Pakistan, Afghanistan, Yemen and Somalia, Ross concludes that: ‘in over a decade of carrying out lethal drone strikes, the US administration has consistently refused to provide a clear, detailed accounting of the human toll of its covert campaigns.

Underestimated casualties and overestimated targeting accuracy are the hallmarks of the US administration’s response: ‘it has released a handful of lump-sum estimates of casualties for Pakistan, and nothing at all about how many people it believes have died in its operations in Yemen or Somalia.’

Among other disturbing features of drone warfare is the ‘double tap’. As Professor Cohn notes: ‘After the drone drops a bomb on its target, a second strike often bombs people rescuing the wounded from the first strike. And frequently, a third strike targets mourners at funerals for those felled by the prior strikes. This is called a “double tap”, although it is more accurately a “triple tap”.

The book primarily addresses crimes committed by the USA, the evidence it presents is sufficient to indict their co-conspirators in the UK. As we noted at paragraph 5 of Reprieve’s communication to the ICC Prosecutor: ‘There is a significant body of evidence from official sources, non-governmental organisations and investigative journalists, providing a reasonable case for the Prosecutor to investigate whether the United States and/or any of its allies are guilty of crimes within the Court’s jurisdiction.’

I wholeheartedly commend this book. As Archbishop Tutu concludes in his foreword: ‘This book provides a much-needed analysis of why America’s targeted killing program is illegal, immoral and unwise.’

Richard Harvey

Reaching the soul in ways that news reports cannot

by Nabila Jameel is a bare, bleak snapshot of child abuse in Pakistan. Chained is a poem dedicated to Ruth First. Embarrassed by Holly McNish dismantles the hypocrisy of a British culture of ‘billboards hoarded with “tits”’ which still forces women to breastfeed, embarrassed, in toilet cubicles. In other poems, a ‘kindly interrogator’ questions an Iranian torture victim and an American health tourist decides to give the transplanted kidney he received to an executed Chinese prisoner. Pippa Little, in her poem, commemorates the hunger strike of imprisoned human rights lawyer Nasrin Sotoudeh: ‘You spoke with your body/ in Evin prison’.

The poems range from distant observations – Carol Ann Duffy’s The Woman in The Moon looks down on the earth and asks ‘what have you done?’ – to the unbearably close Firmament, La Picota Prison, 23rd January 2013 by David Ravelo, a key member of the Barrancabermeja human rights movement in Colombia and denouncer of human rights crimes including disappearances and extra-judicial executions. David Ravelo was imprisoned in 2012 for 18 years in an unfair trial for murder. He writes in his poem, ‘Nights, so many nights/ That I do not see the firmament’. News reports, trial transcripts and investigations are valuable and clearly useful tools in the defence of human rights. This anthology demonstrates what those words do not so easily reach – the human detail, the souls involved in these news stories. Humans have valued poetry since ancient times, relying on it to express feeling where prose cannot help. As Sigrid Rausing says in the Afterword, poetry can still make us see, feel and act.

Elizabeth Forrester

Socialist Lawyer February 2015 47
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