

Socialist Lawyer



Magazine of the Haldane Society of Socialist Lawyers Number **72** February 2016 **£3**

Women
fighting back:
international
and legal
perspectives



'Radical,
working class,
anti-racist,
anti-colonial
feminism'

**Angela
Davis**



**PO Box 64 195,
London WC1A 9FD
www.haldane.org**

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

Membership comprises lawyers, academics, students and legal workers as well as trade union and labour movement affiliates.

President: Michael Mansfield QC

Vice Presidents: Geoffrey Bindman QC, Louise Christian, Liz Davies, Tess Gill, Tony Gifford QC, John Hendy QC, Helena Kennedy QC, Imran Khan, Catrin Lewis, Gareth Peirce, Michael Seifert, David Turner-Samuels, Estella Schmidt, Phil Shiner, Jeremy Smith, Frances Webber & David Watkinson

The current executive, elected at the AGM in December 2015 is as follows:

Chair: Russell Fraser (chair@haldane.org)

Vice-Chairs: Natalie Csengeri & Michael Goold

Secretary: Stephen Knight (secretary@haldane.org)

Treasurer: Rebecca Harvey

Membership Secretary: Subashini Nathan (membership@haldane.org)

Socialist Lawyer editor: Nick Bano (socialistlawyer@haldane.org)

International Secretary: Bill Bowring & Carlos Orjuela (international@haldane.org)

Executive Committee:

Robert Atkins, Martha Jean Baker, Anjenna Balasingham, Jacob Bindman, Aphra Bruce-Jones, Tanzil Chowdhury, Kat Craig, Liz Davies, Emily Elliott, Elizabeth Forrester, Owen Greenhall, Richard Harvey, Paul Heron, John Hobson, Leslie Jaji, Sophie Khan, Siobhan Lloyd, Natasha Lloyd-Owen, Hannah Lynes, Anna Morris, Helen Mowatt, Amy Murtagh, Declan Owens, Laurence Overend, Sam Parham, Wendy Pettifer, Tim Potter, Ripon Ray, Brian Richardson, Catherine Rose, Lyndsey Sambrooks-Wright, Virginia Santini, Judith Seifert, Shanthy Sivakumaran, Debra Stanislawski, Adiam Weldensae

Socialist Lawyer

Editor: Nick Bano

Assistant editors: Russell Fraser & Tim Potter

Special thanks to Shanthy Sivakumaran, Emily Elliott, Michael Goold, Stephen Knight, Declan Owens & Isabel Baylis

Cover image: Jess Hurd

Design: Smith+Bell (www.smithplusbell.com)

Print: The Russell Press (www.russellpress.com)

Online distributor: Pluto Journals (www.plutojournals.com)



ISSN:
Print 0954-3635
Online 2055-5369

Picture: Jess Hurd / reportdigital.co.uk



"A hushed reverence met Professor Angela Davis, who – for many – is almost a figure of revolutionary mythology." See pages 16-21.

Number 72, February 2016

4 News & comment The refugee crisis: law and the battle for Europe's soul; Cuban Five free – and welcome here; Young Legal Aid Lawyers column; Transitional justice in Colombia; Unite against the Housing Bill; 'Full-frontal attack on trade unions'; and Day of the Endangered Lawyer

12 Yes we can! Justice Alliance rally against legal aid cuts

14 International Women's Conference Women fighting back: international and legal perspectives

16 'Radical, working class, anti-racist, anti-colonial feminism' Natalie Csengeri hears Angela Davis' address to the Conference

22 Reports from the International Women's Conference

24 Icons: Railton Road Artwork at Brixton Arts Centre

28 Migrant women battle for access to maternity care Rayah Feldman on policies towards maternity care in 14 European countries

32 Gaza The impact of conflict on women Wafa Kafarna looks at the results of interviews with women from the Gaza strip who went through the 2014 war

36 Widespread and pervasive violation of our human rights Rashida Manjoo on how to effectively challenge violence against women

39 Our right to choose: challenging the state's control over women's bodies Fighting for gender equality helps the struggles for abortion rights, reports Virginia Santini

42 The 'Black Sash' movement Rheian Davies looks at the group of women whose role was recognised by Nelson Mandela on his release

44 Reviews Play: 'United We Stand'; books: 'Jeremy Hutchinson's Case Histories' by Thomas Grant QC; 'Lions Under The Throne' by Stephen Sedley; and 'Northern ReSisters: Conversations with Radical Women' by Bernadette Hyland

Share and share alike

I had the unique pleasure of driving Angela Davis – one of the International Women’s Conference’s keynote speakers – from the airport. We crawled through London looking at the physical evidence of the housing crisis, discussing austerity and the role of lawyers, and puzzling over a roadside sign advertising ‘terrorism awareness week’. I wondered what message a septuagenarian radical would have for today’s feminists.

“Intersectionality” she told the conference “means we can focus on one particular struggle, but with an awareness of interconnectedness”.

That, for me, was the real value of November’s conference. Many of us specialise in one cause or area of law, and it was a reminder of the context in which we carry out our work as socialist lawyers. Comrades shared their outstanding work in areas that aren’t always at the forefront of our minds, as well as discussing issues of overarching importance such as the refugee crisis, austerity and violence against women and girls.

The conference hosted extraordinary women: women involved in struggles related to migration, women’s bodies, women in work, women in conflict and many others. There was a strong international feel, including speakers from Palestine, Lebanon, Algeria, Cuba and South Africa.

This internationalism and breadth of coverage reinforced the ‘awareness of interconnectedness’ that Angela Davis noted as being so important: a Palestinian women’s rights activist talked to a former UN special rapporteur, grassroots activists engaged with academics and young lawyers worked with Haldane stalwarts.

This edition of *Socialist Lawyer* focuses on the conference. It’s a record for those who attended, a report for those who didn’t and an analysis of some of the key points. Regrettably there isn’t space to do justice to all the topics, speakers and participants. However, the event itself sparked so much interest, debate and energy that this magazine need only be a supplement.

Davis also praised the women-focused collective leadership of many of today’s social movements. It was inspiring, then, to see that kind of leadership in so many of the delegates and groups that attended – including the IWC’s phenomenal organising committee.

Angela and I drove around Parliament Square to – I’m not making this up – ABBA’s ‘Knowing Me, Knowing You’ on the radio. Perhaps that epitomises the conference: engaging in politics through a greater understanding of each other, and each other’s struggles.

Nick Bano, editor



The refugee crisis: law and the battle for Europe's soul

The refugee crisis exploded into public consciousness in 2015. Almost unprecedented media coverage saw scenes of despair beamed from the beaches of the Mediterranean to living rooms across the continent. Europe could no longer look the other way. At the end of October the Haldane Society was fortunate to host EU Law Professor Steve Peers and former immigration barrister (and Haldane Society vice-president) Frances Webber, and both analysed responses to the worst migration crisis since the end of the Second World War.

Steve Peers centred his analysis on the reactions of the EU and its

member states. With peak numbers of 5,000 people per day landing on the shores of Lesbos alone, the need for a coordinated and unified response was obvious. But it was pointed out that we have seen “a pattern of borders being closed and fences being raised”, as member states shunt refugees between themselves. Hungary was singled out for its particularly hostile approach to asylum seekers, criminalising those who attempt to cross from Serbia, and returning them across the border with a conviction that could prevent them from re-entering the Schengen Area.

The disunity that has hindered an effective EU response was also clear from discussions over quotas. In an attempt to ease the strain on Italy and Greece, estimated to have received 1 million people between them, the EU set an initial target of 40,000 people to be taken in by member states on a voluntary basis. States only offered to take 32,000. It took majority voting to force through an agreement for the distribution of a further 120,000 across the EU. Steve Peers noted that “the numbers can be managed if there is the political will” but, with Germany as a notable exception, the drive to take responsibility is

conspicuously absent.

Peers also expressed concerns about the EU agreement with Turkey to readmit refugees who had passed through. He cited Turkey's derivations from the 1951 Convention on the Status of Refugees, which mean its provisions are applicable only to those fleeing European countries. With asylum seekers being denied access to employment and education as well as reports of refoulement, it is not clear that Turkey is safe or desirable.

Frances Webber addressed the crisis from a different perspective, focusing on the rationale behind the lethargic response. She posited that the public discourse in Europe “has treated mass immigration of refugees as a threat”, seeing the phenomenon in militaristic terms that require military responses. This is exemplified by the vast industry that has grown around the detection, detention and removal of migrants. Frances highlighted the fact that it is not social workers who greet asylum seekers but the border force of Frontex, as a clear indication that “humanitarian concerns towards refugees have always taken second place”.

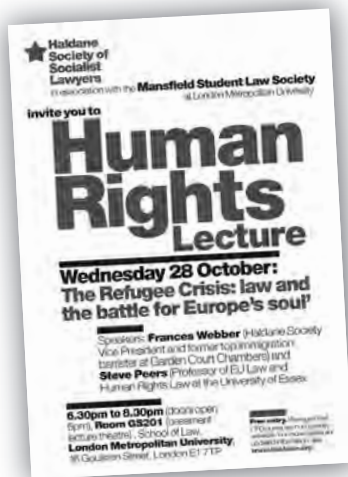
This approach is evident in the mistreatment that many have suffered. There are reports of asylum seekers in the Czech Republic being routinely strip-searched in an attempt to seize the funds to pay for their detention. Meanwhile Bulgaria has seen its border agency shoot and kill an Afghan crossing into the country, Sweden has seen reception centres torched, and across Europe the far-right is on the march.

But if they represent the worst of reactions to the crisis, we have



also seen the best of the people of Europe. Frances keenly described the strong support people have shown for refugees through mass demonstrations, which saw tens of thousands pour onto streets and demand action in support of refugees. She talked of countless aid convoys, people offering rooms in their homes and the unforgettable reaction of Germans cheering asylum seekers as they arrived at the train stations of Munich.

UK lawyers have written in *The Times* and *The Guardian*



October

1: The ICC charged Ahmad al-Faqi al-Mahdi, a member of Ansar Dine a Tuareg Islamic extremist militia, with jointly ordering and carrying out the destruction of nine mausoleums and the Sidi Yahia mosque in Timbuktu, Mali. This is the first time that a person has been charged with damaging humanity's cultural heritage.

15: The Ministerial Code was re-written to omit ministers' obligation to comply with international law when carrying out their duties. The amendment was quietly introduced in the context of the Conservative government's criticism of the Human Rights Act and the European Court of Human Rights.

£0 Google it...
Tax paid by Cadbury's on British sales of £2 billion and profit of almost £150 million in 2014

20: The ECHR held that secret hearings to determine whether a suspect can be held without charge are legal in the context of anti-terrorism investigations. Faris Vehabović, in a dissenting judgment, said that it was ‘unjustified’ to exclude the accused and his representative from hearings as it deprived him of the opportunity to dispute the evidence.



Pictures: Jess Hurd / reportdigital.co.uk

advocating the creation of safe routes of entry, while Hungarian lawyers have mounted strong opposition to their government's actions. Initiatives from filmmakers and artists, such as 'For a Thousand Lives be Human', have appealed for more decisive action from the EU. The message is clear: 'It is a battle for Europe's soul. What we want is a people's Europe and the initiatives coming out of the crisis, the best of the people's responses are where we want to take it'.

Leslie Jaji

In December, thousands of anti-war campaigners protested outside Parliament as MPs voted to bomb Syria by 397 to 223, a majority of 174. One of the speakers outside, Kate Hudson, general secretary of CND, called for: "No more war lies from our government. We had war lies from the Blair government and he was proved to be a war criminal."

November

30: The last British national in Guantanamo Bay, Shaker Aamer, was released and arrived back in the UK. Although he has grounds to launch a claim for wrongful imprisonment, he has indicated that he only wants an apology from the British government for their complicity in his torture and not compensation.

18: The Supreme Court dismissed an appeal by two wives against an immigration rule requiring their spouses to speak English before moving to the UK. Spouses are now required to pass an English test at approved test centres before they can enter.

25: The High Court ruled that the welfare secretary, Iain Duncan Smith, unlawfully discriminated against disabled people when he subjected their carers to a benefit cap. The High Court found that carers looking after relatives for more than 35 hours a week were effectively in work even though they were receiving benefits and should be exempt from the cap intended to push so-called workless families into work.

30: The High Court in Northern Ireland ruled that the almost-outright ban on abortion breached the rights of women and girls. However, the High Court specified that the breach only applied to women pregnant with babies with foetal abnormalities or pregnant as a result of sexual crime.

Cuban Five free – and welcome here

The case of the Cuban Five (or Miami Five) is an example of international working class solidarity at its best. The Cuban Five were members of an intelligence network (La Red Avispa, or The Wasp Network) set up by the Cuban government to infiltrate far-right terrorist groups in the USA who were carrying out attacks on Cuban soil, primarily against tourist targets. They successfully penetrated several such organisations and are treated in Cuba as heroes for their role in preventing bombings and other attacks against civilians.

The lives of the Cuban Five at times read like an adventure story. René Gonzalez convinced the Americans that he had defected from Cuba by stealing a plane, zig-zagging across the ocean while flying low to avoid radar, and landing in Florida on an empty fuel tank. Gerardo Hernández trained as a diplomat before assuming a false identity as the Puerto Rican ‘Manuel Viramóntez’ and slipping

into the USA. Their cover in the USA was maintained for years.

But the last adventure for the Five began on 12 September 1998 when FBI agents broke down their doors, swooping in to arrest them in dawn raids. Placed on trial for a range of offences, primarily relating to espionage – but also, in the case of Gerardo Hernández, conspiracy to murder – the Five never stood a chance. Tried by a jury drawn from Miami, the most hostile environment conceivable to alleged Cuban spies, and slandered throughout the trial by local media paid by the US government for the purpose, the Five were inevitably convicted of all charges. Despite a set of initially successful appeals based on the political nature of their trials their convictions were eventually upheld and they began long prison sentences, and their quest for justice.

Throughout their imprisonment an international solidarity campaign developed, in the UK principally through the Cuba



The Cuban Five: all now free – and welcome to come to the UK.

Solidarity Campaign and Voices for the Five. The campaign was taken up by trade unionists and socialists throughout the world, and in the UK in particular. The Haldane Society for its part played a role in promoting an International Commission of Inquiry held at the Law Society, which inquired into their trial and the conditions of their detention. Attended by many noted international jurists, it exemplified the efforts on the international stage to achieve justice.

Having served his sentence, René Gonzalez was released from prison in 2011 and was permitted to return to Cuba permanently in 2013 on condition of surrendering his joint-US citizenship. Fernando González was released on 27th February 2014. Both men joined the international campaign of solidarity for the remaining members of the Five.

Playing his role in the campaign for the release of his comrades, René Gonzalez sought to attend the International Commission of Inquiry in London, but was refused entry by the UK’s Entry Clearance Officer (“ECO”) based in Havana on the grounds of his conviction, which had resulted in a prison sentence of more than four years. The Immigration Rules (para 320(2)(b)) provided that this was a bar to his entry to the UK, unless he could show exceptional circumstances or a breach of the European Convention on Human Rights. The Home Office guidance suggests that ‘exceptional circumstances’ includes reliable evidence that the conviction was politically motivated.

A further application was made for him to enter the country, this time supported by a number of MPs and Lords, and with a specific

invitation to speak in Parliament. Again, this was rejected by the ECO on the same grounds.

This was the start of a year-long litigation process. Having exhausted administrative appeal routes, an application for judicial review was made. This was supported by a number of MPs as interveners, including Jeremy Corbyn and John McDonnell. Permission for judicial review having initially been refused, permission was granted to appeal to the Court of Appeal on the grounds of the serious constitutional issues that the case raised in terms of the clash between the will of the executive, and the desires of parliamentarians.

The case was heard in the Court of Appeal on 20th October 2015. René and the MPs were represented *pro bono* by solicitors from Duncan Lewis and Public Interest Lawyers respectively, and by barristers from Mansfield Chambers. On behalf of René it was argued that the invitation to speak in Parliament, coupled with the international concern about the political nature of his conviction, amounted to exceptional circumstances, such that preventing his entry to the UK would amount to a breach of the ECHR. On behalf of the interveners it was also argued that MPs have a right under the ECHR Article 10 to receive information relevant to the exercise of their functions, and that this right is to be accorded particular weight due to its instrumental importance in a democratic society: to deny them the right to speak to René one to one would amount to a breach of that Article 10 right.

In the course of oral argument it unexpectedly emerged that the decision to deny entry to René was

December

3: Mandatory criminal court charges were scrapped less than a year after they were introduced and following the resignations of more than 100 magistrates. Despite widespread condemnation, Michael Gove is still considering introducing discretionary criminal court charges.

13: Seventeen women were elected as municipal councillors in the first election open to female candidates in Saudi Arabia.

£4,327

Corporation tax paid by Facebook in 2014

17: Following a large number of library closures, the Chartered Institute of Library and Information Professionals has launched a legal challenge over the government’s failure to carry out its legal duties to the public.

Young Legal Aid Lawyers

This regular column is written by YLAL members. If you are interested in joining or supporting their work, please visit their website www.younglegalaidlawyers.org

Labour's finally getting it right

in fact taken not by the ECO in Cuba, but by the Home Secretary herself, who directed the ECO to refuse entry to René. This only underlined what we had always known: that rather than being a strict adherence to the Immigration Rules by an anonymous civil servant, the decision to deny René entry to the UK was an unashamedly political decision.

On 10th November 2015, in a unanimous judgment, the court granted permission for judicial review, and then allowed the claim, holding that there had in fact been a breach of Article 10 by the Secretary of State. In doing so, the court did not feel the need to place any reliance on the position now occupied by some of the interveners as members of the Opposition front bench. This point is likely to be of great assistance to applicants for entry clearance if similar circumstances arise in future.

During the course of the litigation the remaining three members of the Five (Gerardo Hernández, Antonio Guerrero, and Ramón Labañino) were granted presidential commutations of sentence, and were sent back to Cuba in an exchange of political prisoners (as a condition of the commutation Antonio Guerrero was required to renounce his US citizenship.) Happily, all members of the Cuban Five are now free in Cuba. They are immensely grateful for the solidarity shown to them by people from around the world. In Cuba, they are heroes. In the UK, thanks to the tireless efforts of certain Labour MPs and others, they are now welcome.

Stephen Knight, barrister at Mansfield Chambers, part of the Interveners' legal team and member of the Executive of Haldane Society.

17: The Supreme Court dismissed a legal challenge that police stop-and-search powers were being used disproportionately against black people. The Supreme Court unanimously held that the searches were necessary to deter violent crime and gangs.

It won't have escaped Haldane Society members' notice that there is an unashamed socialist leading the Labour Party. Readers will also be aware that one of Corbyn's first acts as leader was to ask Lord Bach to carry out a comprehensive review of legal aid policy. YLAL was invited to the launch event for the review in November, which was addressed by Corbyn, John McDonnell, Lord Falconer, Lord Bach and Karl Turner. The fact that the leader of the opposition and shadow chancellor attended a public meeting about legal aid speaks volumes: legal aid merited barely a mention in the 2015 Labour manifesto.

Corbyn and McDonnell served together on the Justice Select Committee during the Coalition and Corbyn is a former chair of the All Party Parliamentary Group on Legal Aid. McDonnell described legal aid cuts as a 'false economy' with immense long-term costs, while Corbyn described access to justice as a 'fundamental human right'. Corbyn also rejected the idea that pro bono can be a substitute for publicly-funded legal advice and representation: 'Pro bono, charity and food banks are not the solution to inequality. If we want a rights-based society with equal access to justice, we have to pay for it'.

Lord Bach told the meeting that he will chair a commission of experts, which will invite oral and written evidence, and aims to prepare a draft report by April and a final report in time for the party conference. We are delighted that YLAL founder Laura Janes has been invited to join the commission, along with other eminent civil and criminal legal aid lawyers, and we look forward to contributing to the review.

In a debate in the House of Lords in December, Lord Bach referred approvingly to the briefing note that YLAL had prepared. Bach hoped for a return to the decades-long consensus that 'helped to develop legal aid as an essential part of the social security system that every citizen was entitled to in a civilised country'.



YLAL founder Laura Janes

Picture: Jess Hurd / reportdigital.co.uk

He expressed the hope that such a consensus would be in line with:

"The principles set out so well by the Young Legal Aid Lawyers – a very impressive group – in its briefing note: 'Equal access to justice for all irrespective of wealth should be the absolute core principle of our legal aid system. We believe that the cost of legal aid should be met by the state through general taxation. We believe that access to justice is a public good' – I emphasise the words "a public good" – "that should be classed by government in the same category as the rights to healthcare and education". These are principles that should unite us all, and I believe in principle that they do. However, if I may say so to the minister, whose remarks I look forward to hearing, a good start would be for Her Majesty's Government to think urgently about undoing some of the damage they have caused."

Corbyn's attendance at the Voices for Justice rally, organised by the Justice Alliance at Conway Hall on 6th January, provided further evidence of Labour's new-found commitment to legal aid. Corbyn pledged that Labour "will support and defend the principle of legal aid", which he described as a "basic human right". As the Labour peer and self-described "old legal aid lawyer" Baroness Helena Kennedy QC told the

rally: her party is now "being led by somebody who believes what we believe: that this is vital".

These are undoubtedly very positive developments, but only so much can be achieved in opposition. Barring unforeseen circumstances (perhaps involving Europe) the Conservatives will stay in power until 2020. The Ministry of Justice must find further savings of 15%. It seems that no further cuts to legal aid are planned, although the dispute regarding criminal legal aid contracts is ongoing and the lawfulness of the residence test for civil legal aid is likely to be determined by the Supreme Court.

Looking to the future, much may depend on whether the Conservatives see austerity as a short-term fix or a long-term philosophy. YLAL is non-partisan and will work with any party to support junior legal aid lawyers and improve access to justice. We have met with every Minister for Legal Aid since the office was created, with the exception (so far) of the current incumbent, Shailesh Vara. We have invited the Minister to meet with us to discuss legal aid policy and its impact on junior lawyers; if there is any prospect of pushing the government in a positive direction, we will seek to do so. As ever, we live in hope.

Oliver Carter, co-chair of Young Legal Aid Lawyers

Transitional justice in Colombia

In keeping with its longstanding support for the peace process and the development of human rights in Colombia, the Haldane Society, in collaboration with Justice for Colombia and Marcha Patriótica, hosted a meeting in November on the issue of transitional justice. The meeting marked the three-year anniversary of the beginning of the talks in Habana.

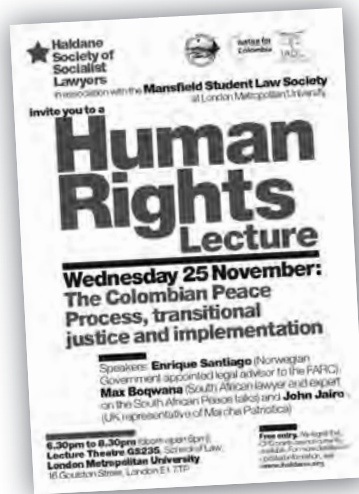
Students and members of the Colombian community came to hear Enrique Santiago, Max Boqwana and John Jairo give their analyses of a subject which, to date, has been the most controversial and polarising issue in the peace talks thus far.

Santiago, whom the Norwegian government has appointed to advise Revolutionary Armed Forces of Colombia ('FARC') and is also a bureau member of the International Association of Democratic Lawyers ('IADL'), gave a thorough and illuminating presentation on the current state of the talks.

Santiago emphasised that the agreement on the 'Special Jurisdiction for Peace', signed on 23rd September 2015 by the Colombian President Juan Manuel Santos and the leaders of the FARC in the presence of Cuban President Raul Castro, adhered to the framework that had been established at the beginning of the peace talks; an agreement that strictly adheres to international

law, especially international human rights law, guarantees the rights of victims and guarantees the 'non-repetition of victimisation', which has persisted throughout the conflict.

The agreement provides for amnesty and pardon for 'political crimes'. Santiago emphasised that



the distinction is a crucial one and has its roots in the idea that citizens have a right to rebellion, recognised in various international legal instruments such as the Universal Declaration of Human Rights. He was quick, however, to also emphasise that amnesty and pardon would not cover 'international crimes' such as war crimes and crimes against humanity. Guerrilla members and – importantly – members of the state and its paramilitary auxiliaries would be liable to prosecution.

Santiago concluded by



Campaigners outside parliament on 5th January. Petition: <https://you.38degrees.org.uk/petitions/stop-the-housing-bill>

January

5: Leigh Day was referred to the Solicitors Disciplinary Tribunal over their handling of the Iraqi cases in the Al Sweady Inquiry. Leigh Day challenged the referral as premature given the short period of time to respond to the Solicitors Regulation Authority regarding the numerous allegations.

Between 2010 and 2015 the wealth of the poorest 50 per cent in the world fell by 41 per cent – despite an increase by 400 million of the global population.

12: Thousands of junior doctors took part in their first strike in more than 40 years. It was the first of three planned strikes after two years of negotiations failed to reach an agreement. The government is seeking to set normal working hours for doctors to include until 10pm at night and weekends.

18: The Conservative government removed maintenance grants using secondary legislation to avoid a proper parliamentary debate. Maintenance grants had previously been allocated to students from low-income backgrounds to offset barriers to higher education.

describing the practicalities of implementing the above, which include the creation of the various courts: (i) Truth and Recognition of Responsibility; (ii) Amnesty and Pardon; (iii) Definition of Juridical Situations; and (iv) the Special Tribunal for Peace. The last of these would be responsible for trying and sentencing for those who have committed crimes to which amnesty doesn't apply.

Max Boqwana gave his presentation via video link directly from South Africa. The IADL bureau treasurer and CEO of the Thabo Mbeki Foundation

gave a comparative analysis between the Colombian peace process and the South African agreement that brought to an end the apartheid government.

Boqwana began by focusing on the provision of amnesty to those who collaborated with the process. It was through this amnesty that various serious state crimes could finally be brought to light, which helped many black South Africans to come to terms with the past.

However, Boqwana was also critical of the South African agreement's failure to deal with

the underlying economic and social disparity. The talks did not adequately address land and economic inequality, which meant that an opportunity to deal with these fundamental issues was missed. It is hoped that the parties to the conflict in Colombia will manage to address these fundamental concerns as part of any agreement reached.

Finally, John Jairo of Marcha Patriótica UK spoke on the role of civil society in making sure, firstly, that the peace process continues to its conclusion, that victims of the conflict have better involvement,

and that implementation is monitored by the international community alongside Colombian civil society.

The Haldane Society will continue to campaign in support of the peace process and will stand with activists and lawyers targeted by the state for their attempts to safeguard human rights in Colombia.

For more information about the peace process please visit Justice for Colombia's website and our own Defending Human Rights Defenders website.

Carlos Orjuela



Unite against the Housing Bill

The Government is pushing through a Housing Bill that will mean higher rents, less security, and less chance of a home you can afford. The Bill sells off existing council homes to the highest bidder; removes secure tenancies; imposes 'pay to stay' market-linked rent rises for council and housing association tenants (if two household members' income is over £30k – or £40k in London); means increased rents and longer waiting lists; reduces rights for private renters and Travellers; and replaces 'affordable' homes for rent with 'starter homes' most cannot afford.

This will force people from their homes, friends and family, healthcare and networks, breaking up our communities. Millions are already forced into private renting, in damp, overcrowded housing, with no long-term security. This

Bill will make that worse, and hit the poorest, the most vulnerable and women fleeing violence, as well as cut Traveller sites and rights.

The Bill had its second reading in November and the Government tabled major amendments over Christmas (including removing secure tenancies) with no consultation or scrutiny by Committee. They didn't put this in their Manifesto! It's had a total of just 12 hours debate in the Commons, with six hours on the 5th January (starting at 9pm!) and a second six hours a week later.

It's now in the Lords, and probably there till the end of March, before going back to the Commons.

A 'Kill the Housing Bill' campaign aims to unite tenants, housing workers, trade unions, MPs and councillors in a bid to



Eileen Short: 'We must stop this Bill'.

stop this Bill. We need your help. Please affiliate and get involved and join the demonstration in London on 13th March (see below).

Eileen Short

killthehousingbill.wordpress.com
info@defendcouncilhousing.org.uk
07432 098440

Twitter: @KillHousingBill

Facebook: Kill the Housing Bill



This campaign

is supported by Defend Council Housing, Kirklees Federation of Tenants, Camden Assembly of Tenants, Tower Hamlets Tenants Federation, National Barge Travellers Association, Radical Housing Network, GMB, Unison and Bakers Food and Allied Workers trade unions, NUT London Teachers Housing Campaign, Unison Camden LG, Cambridge City and other branches, Unite Housing Workers, the Green Party, John McDonnell MP, London Gypsy Traveller Unit, Morning Star newspaper, Haldane Society of Socialist Lawyers, Islington Hands Off Our Public Services, Islington Private Tenants, Hackney and Waltham Forest Trades Councils, Leeds Hands Off Our Homes



NATIONAL DEMO
KILL the HOUSING BILL
meet 12 noon
Lincoln's Inn Fields,
London WC2A 3TL

'Full-frontal attack on trade unions'

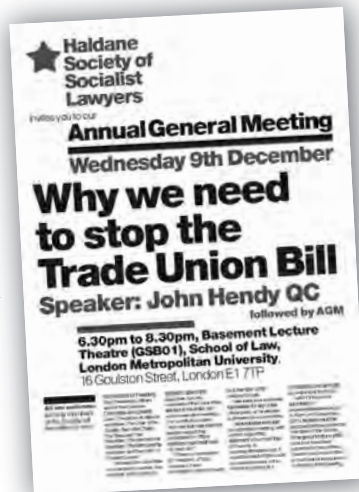
John Hendy QC, a leading authority on labour law and a vice-president of the Haldane Society, gave a lecture on the Trade Union Bill to Haldane members at the Annual General Meeting on 9th December. The Tory government, Hendy said, unexpectedly rose to power and is now creating the most restrictive laws in the Western world.

This Bill attacks trade unions and undermines the important human rights legacy of the 20th Century. It is at odds with the International Labour Organization's conventions, the International Covenant on Civil and Political Rights, the International Charter of Economic, Social and Cultural Rights, the European Social Charter, the Charter of Fundamental Rights of the EU and, the European Convention on

Human Rights. "We ought to be in a position where the right to strike should be equally revered as the right to a fair trial. But we aren't; and this Bill is pushing our rights provided through the European Social Charter out in favour of political objectives".

"This Bill", Hendy said, "is a full-frontal attack on trade unions". It has a significant impact on UK's international obligations, including Articles 5, 6 and 11 of the ECHR. It seeks to "influence over the conditions of life and working conditions, whilst creating a distortion of the labour market".

The International Labour Organization was built around the principle that labour is not a commodity, "yet that principle has been disregarded [...] It is an aspect of the market for neo-liberals, who seek to smash the unions." This



Bill is part of Thatcher's legacy; the latest chapter in a 30-year history of undermining and disempowering trade unions. Thatcher's government left industrial laws in a dreadful state, yet the then Labour leader Tony Blair wrote an article in *The Times* in 1997 promising to not look back to the 1970s. Over 13 years the Labour government did nothing to challenge Thatcher's legacy, nor to protect the right to strike and collective bargaining.

The Bill itself will make it more difficult to organise industrial action. It imposes onerous requirements that could invalidate a strike ballot for any number of reasons, for example if members fail to keep their address up to date. It turns absentions into 'no' votes, and in important public services and ancillary undertakings there is a 'supermajority' requirement.

The existing balloting requirements are at odds with Article 11 of the ECHR, yet under the Bill ballots will have to include a detailed indication of the matters in dispute, which gives employers

further opportunities to apply for an injunction.

There are further restrictions on picketing. During the London Underground dispute over the summer the RMT had to ballot 450 separate workplaces. As Hendy points out: "most of those in the RMT are ordinary people – to go on a picket line is already a brave act." Given the government's plan to remove the ban on strike-breaking agency workers, unions will need to picket far more workplaces.

After the Bill becomes law, a 'picket supervisor' must give their details to the police. "What a chilling effect it must be for workers on the picket line who have to pick one of them to be a supervisor," Hendy said. What the police will do with this information is anyone's guess, but Hendy told us: "in the course of the disclosure of documents in blacklisting case, we have learnt that the police were having meetings with consulting agencies. The police spoke to firms who have blacklisted workers."

This Bill cements UK labour laws as unprogressive compared to other parts of the world. In Austria, France and Sweden up to 80% of workers are covered by collective bargaining. Workers secured a victory last year in the Canadian Supreme Court in *SFL v Saskatchewan*. In the UK however, collective bargaining has been reduced to no more than collective begging. As Hendy put it:

"This assault on the right to strike and right to collective bargaining is what this anti-union legislation has been all about since 1980 [...] Today eight out of every 10 workers are at the complete mercy of their employers and the



The Legal Workers' Trade Union (LWTU) is determined to improve the welfare, working conditions and worker participation of legal sector workers. Legal sector workers and students of any sort, whether qualified, administrative, or support staff are invited to contact the LWTU for information and support towards unionising legal workplaces.
Subashini Nathan, Legal Workers Trade Union

Website: <https://legaltradeunion.wordpress.com>
Twitter: @Legal_TU Email: legaltradeunion@gmail.com

January

21: Climate change activists with the Plane Stupid campaign were convicted of aggravated trespass for occupying Heathrow's north runway. The defendants had attempted to call noted scientists, John McDonnell and Caroline Lucas, and George Monbiot to give evidence.

Between 2010 and 2015 the wealth of the richest 62 people in the world increased by HALF A TRILLION dollars to

\$1.76tn

27: A victim of domestic violence and the grandparents of a severely disabled teenager have won their case, establishing that the imposition of the bedroom tax is unlawful discrimination. The DWP has appealed to the Supreme Court.

28: The justice secretary not only aborted "two-tier" contracting, but he also abandoned the latest 8.75% cut in fees. In a surprisingly frank written statement Gove acknowledged the role of the judicial reviews against his department and praised the work of criminal lawyers.

Labour market. The average worker seeking work doesn't negotiate their contract of employment, and there is no union to stand on their behalf to conduct these negotiations."

The Labour Party made attempts to amend the Bill to allow online and secure workplace balloting. This would have made it far easier to organise workers. However, the amendments were rejected by the government. If the Bill passes union members must play a much more active role, and organisers will face burdensome requirements.

How can we stop the Bill? The burden is on the movement and communities. Lawyers might challenge the Act, but Hendy points out that a favourable outcome in the ECtHR might take five years of litigation.

It is important that workers and community members remain united. Hendy points out that Unite has started to organise workers who are not at work, through Unite the Community. Demonstrations of support can defeat the Act. The Pentonville dockers who were imprisoned in 1972 helped to defeat the Industrial Relations Act 1971.

The junior doctors' dispute shows that the benefits of unionising can reach beyond traditionally working class jobs. The BMA have built a fantastic campaign, assisted by the uniform anger of the workforce. The legal sector will need to take note that, although we are dispersed and under huge economic pressure, we remain workers. We need to unite ourselves, as well as damning this Bill and standing in solidarity with workers everywhere.

Subashini Nathan

Day of defiance

The Haldane Society is proud to participate each year at the end of January in the Day of the Endangered Lawyer. This is the initiative of the Dutch advocate Hans Gaasbeek. Since 2010 protests have been organised in front of embassies in solidarity with endangered lawyers. The date commemorates the four lawyers and a trade unionist killed by Spanish fascists in Madrid in January 1977.

The day is organised across Europe by the European Lawyers for Democracy and Human Rights (EDLH), with members in 18 European countries; and the European Democratic Lawyers (AED).

This year the event was also supported by the Honduran Association of Judges for Democracy; the European Bar Human Rights Institute, IDHAE; the Council of Bars and Law Societies of Europe, CCBE; various bar associations; Lawyers for Lawyers; International Association of Democratic Lawyers, IADL; International Association of People's Lawyers, IAPL; and International Association of Lawyers, UIA – as well as lawyers in New Zealand.

This year's Day of the Endangered Lawyer took place on 22nd January in London, at the Honduras Embassy (see picture with banner above). *The Guardian* featured a letter signed by Haldane president Mike Mansfield QC, Louise Christian and others. The picket was attended by supporters



Picture: Paul Heron

from Haldane, Peace Brigades International and the Colombia Caravana. The Ambassador of Honduras invited five representatives in for discussions.

The biggest association of ELDH is the Progressive Lawyers Association – CHD – in Turkey, and they organised large demonstrations in six cities of Turkey and Haldane's sister organisation in Germany, the VDJ – Association of Democratic Lawyers – organised one in Berlin (see images from both on Haldane's Facebook page).

ELDH General Secretary, the German trade union lawyer Thomas Schmidt, could not take part in the protests as he was on his

way to Diyarbakir in the Kurdish south east of Turkey on a four day ELDH mission with 13 participants from Belgium, Germany, Italy, and Austria. They were going to investigate human rights violations inflicted by the Turkish authorities; civilian casualties; and the curfew, the number of people affected, and the impact of the curfew on the population.

The next meeting of the ELDH Executive will take place on 7th May 2016 in Athens, hosted by the Greek association of ELDH, the Alternative Intervention of Athens Lawyers [AIAL], www.epda.gr. Contact me at b.bowring@bbk.ac.uk for details.

Bill Bowring



Adam Lunn (PBI), Prof Bill Bowring (President ELDH), Ambassador Ivan Romero-Martinez, Camila Zapata Besso (Colombia Caravana), Tim Potter (Barrister) and Paul Heron (Public Interest Lawyers) - both the Haldane Society Executive Committee.

30: The government has appointed Tottenham MP David Lammy to investigate and report on the way in which the criminal justice system disproportionately punishes people of black and minority ethnic backgrounds.

31: Court cleaning staff in the IWGB union took industrial action across London in favour of a living wage. Cleaners are sub-contracted by Mitie, which pays the minimum wage despite posting profits of £49 million in 2014.

'There is now an industry trying to profit from spurious claims lodged against our brave servicemen.'

Prime Minister David Cameron wants to stop people suing for mistreatment by soldiers.

'...bunch of migrants.'
David Cameron in the House of Commons.

'Dave was being polite.'
Columnist Richard Littlejohn.

Yes we can!

On Wednesday 6th January the Justice Alliance organised a rally in support of legal aid. Jeremy Corbyn – who was apparently re-shuffling the shadow cabinet by texting under the table – told the rally that legal aid is a ‘basic human right’. Other speakers included Helen Steel, Marcia Rigg, Shami Chakrabarti and Emma Scott of Rights of Women (whose speech was read out by Heather Harvey). Over 400 attended, including a frightening Michael Gove puppet.

Three weeks later Gove abandoned the ‘two-tier’ contact scheme and postponed further cuts to criminal legal aid. Together with the abolition of the criminal courts charge, that represents the start of the dismantling of Chris Grayling’s legacy. Those successes have been hard won by direct action, and by rallies such as the Justice Alliance’s.



Pictures: Jess Hurd / reportdigital.co.uk



justice alliance rally
Voices for justice
Save legal aid

Wednesday 6th January 2016
6.30pm **Conway Hall** 25 Red Lion Square, London WC1R 4RL
FREE Book now: www.eventbrite.co.uk/e/voices-for-justice-save-legal-aid-tickets-19878304544

Speakers include:
Marcia Rigg
Shami Chakrabarti
Helen Steel
Peter Kavanagh
Laura Jones
Awate Suleiman
Emma Scott
Jeremy Corbyn MP
Helena Kennedy QC
Deborah Coles



Women fighting back: international and legal perspectives

★ **Haldane Society of Socialist Lawyers**

International Women's Conference

Organised with:



Supported by:



The Haldane Society of Socialist Lawyers, the International Association of Democratic Lawyers and the European Association of Lawyers for Democracy & World Human Rights hosted the International Women's Conference on 28th and 29th November 2015.

Over 200 activists, lawyers, academics and people with an interest in intersectional feminism attended London South Bank University for a combination of workshops, panel sessions and high-level speakers.

The conference brought a critical, left-wing and intersectional perspective to the women's movement and provided a forum for exchanging ideas and practical skills between lawyers, academics and activists to advance women's campaigns and struggles.

“Now you have touched the women, you have struck a rock. You have dislodged a boulder. You will be crushed”. Song from the National Women's Day Protest, USA 1956.



Picture: Jess Hurd / reportdigital.co.uk

International Women's Conference }

‘Radical, working class, anti-racist, anti-colonial feminism’

Natalie Csengeri hears
Angela Davis’ address
to the Conference.

A hushed reverence met Professor Angela Davis who – for many – is almost a figure of revolutionary mythology. She is known for fighting for women’s liberation, for people of colour, and for socialism. Having got off a plane that morning she was astonishingly sharp. In a style that was uniquely both authoritative and down-to-earth, Davis brought together the threads of *Women Fighting Back* with spirit, kindness and sagacity. >>>



Picture: Jess Hurd / reportdigital.co.uk

>>> Davis began by saying that she was happy that the Haldane Society had not given up on socialism and recognising the importance of the leadership role of women lawyers and activists. Referring to her participation in an unabashedly intersectional, socialist, feminist conference, she asked: “[w]here else would one want to be at this particular junction in history?” Referring to her arrest 45 years ago (when she was on the FBI’s ‘10 Most Wanted’ list), and subsequent release after the Free Angela Davis Campaign, she went on to say that she would not be where she is today without her lawyers. She added, however, that “lawyering alone [...] may not accomplish what we might expect it to, but most lawyers who are aware of the connection of the work they do with the importance of mass movements are doing some of the most important work of our time.”

Putting this historical moment in context, she touched first on the protests in the US against police violence against black bodies from Ferguson to San Diego. She asked whether it is a temporary moment or whether #blacklivesmatter signified a new direction for black anti-racist movements. She noted that it was three queer black women who started the Black Lives Matter movement.

Davis evaluated the effect of women bringing new forms of leadership. Comparing more patriarchal forms of leadership, which throw up a single figure as a rallying point, she noted that movements with women leaders were, in the words of the organisers of Black Lives Matter: “leaderful, not leaderless”, as well as collective. She also noted the anti-capitalist direction in the movement, particularly the targeting of the Magnificent Mile in Chicago on Black Friday in autumn 2015.

She then gave a thorough analysis of the harrowing scale of state violence in the US. Challenging the mistaken impression that police are becoming more violent and more oppressive, Davis said that most anti-racist

activists in the US recognise that these attacks have been “continuous since the 19th century and the aftermath of slavery”, citing the infamous lynching case of Emmett Till in 1955 and the ‘kissing case’ in North Carolina, where two black boys (aged seven and nine) were charged and convicted of molestation after being kissed by a white girl on the cheek.

Davis urged us not to forget the names of those black women and women of colour killed by institutionalised state violence. Marking the tragic killings of Tanisha Anderson and Sandra Bland in Texas, Davis drew connections with the sorry state of mental health understanding and care in the US. “Mental illness as experienced by a black woman [...] who encounters the police is often a fatal combination”. She added how dangerous it is for trans women of colour who are unable to pass, calling them “an easy target for state violence” and giving the names of Lorena Xtravaganza, Elisha Walker and Tamara Dominguez as just a few in the long list of trans women of colour killed by police.

“Movements everywhere, especially in the US, urgently need to acknowledge the importance of internationalism”, Davis observed. Drawing on the connection to today’s movements, she praised women like Lilian Ngoyi and Helen Joseph who led the National Women’s Day Protest in 1956, the largest march in the country at that time, where women marched on union buildings



and took part in a 30 minute silence. This was a pivotal moment for the country and had symbolic historical significance for women. It fought back against the propaganda that women were 'politically immature'. Davis recounted the words of the song sung by the women on that march: "You have touched the women, you have struck a rock, you have dislodged a boulder, you will die".

Davis went on to note how the current struggles in South Africa have paid homage to the 1956 women's march. There have been weeks of protests by university students fighting to "liberate their university from the web of capital". These protests ended with a massive demonstration at the same union buildings. Bringing back the connections with the US, Davis illustrated how black and other progressive students are demanding changes. These include calls for the resignation of the president of the University of Missouri when he failed to respond to racism. That campaign

was so successful that, when the football team joined the cause, the president and the chancellor resigned in a single day. Davis noted the progress of social movements incorporating internationalism, particularly the plight of the Palestinians as a constant theme in black activism, from Ferguson to South Africa.

After first confessing that she has not always embraced feminism, Davis told of her previous assumption that feminism was "inevitably bourgeois feminism." However, she went on to praise the rise in intersectionality driving activism in the

contemporary era, noting that this recognition of deep connections "between gender violence, anti-racism, and anti-capitalism" arises from feminist influences. Those influences allow for more capacious analysis, Davis suggested. Distinguishing intersectionalism from an obligation to be part of every struggle, Davis states that whether one's activist work is for housing rights, >>>



Picture: Jess Hurd / reportdigital.co.uk



“Most lawyers who are aware of the connection of the work they do with the importa

>>> gender equality, or the rights of refugees, it is best done with “an awareness of the interconnectedness of these issues... and the way that global capitalism has exacerbated all of the social problems of our time”. Davis further quipped “not all feminisms are equal”, which she clarified by eschewing feminisms that focus on the upward movement of women while maintaining and replicating hierarchies of oppression, thereby leaving women who suffer multiple form of oppression behind. What kind of feminism is it that Davis pushes for? “Radical, working class, anti-racism, anti-colonial feminism”

Davis noted, “would be one way to further refine what feminisms are most productive for this moment in history”.

For instance, she pointed out how an understanding of Marxism and anti-racist struggles gives one an insight into the ‘concept’ of diversity. Davis described diversity as ‘a corporate strategy’, designed to make it appear as if something is being done when in reality a fig-leaf is plastered over the real issues. “More and more people of colour and women are allowed to participate in an apparatus that continues to be as oppressive as it was before the incorporation of people of colour and women”. She went on to – again – praise the student movements for arguing “for something that is much stronger than diversity – for an end to institutionalised racism, for radical change, and decolonisation”. Direct action and the reclaiming of symbols, Davis pointed out, amounts to more than the sanitised, empty goal of ‘diversity’. She gave the example of Bree Newsome climbing the flagpole at the capitol building in South Carolina in the wake of the black church shooting in 2015 by a white supremacist, and ripping down the confederate flag.

Davis gave an anti-racist and anti-capitalist analysis of state violence. She observed that using state violence to stop gender violence replicates that violence, and that some feminist activists look for alternatives. A fight against gender violence “has to challenge its own reliance on criminalisation”. As a founder of Critical Resistance (an organisation advocating for prison abolition) Davis explained that the profitability of punishment is a central strategy of capitalism, which oppresses people of colour most of all. Criticising “this simplistic notion of security [...] the all you have to do is lock up the really dangerous people (inevitably people of colour) and the rest of society will be fine”, Davis

Pictures: Jess Hurd / reportdigital.co.uk



ance of mass movements are doing some of the most important work of our time.”

points to the serious degradation of education while the prison industrial system and incarceration technologies grow.

Met with raucous applause, Davis then humbly urged the audience to sit down for an exchange. She was asked for advice for black women in the struggle and told the audience that the most effective activists find their own way, adding that she does not think there is a formula for how to be a great leader or activist. Wafa Kafarna, who attended the conference having travelled all the way from Gaza, asked for her insight into the struggle in Palestine. Davis did not give her response within the standard one-state or two-state solution paradigm, but answered by pushing for the “possibility of imagining liberation outside of the concept of the state”. Davis then went on to criticise the nation-state as a major problem, which arose from capitalism. It is

lawyers, she urges, who must not just use the law within the state, but must go further and challenge both the law and the framework that produced that law. Finally, when asked what is next for the movement, Davis responded with the importance of environmental struggles and food justice. Because “what good is it for a world without patriarchy and homophobia and racism when the planet itself is disintegrating?”. Building on her own veganism, Davis notes the issue of the capitalist industrial production of animals, which so senselessly creates boundless cruelty and torture, which colonises the planet, and which causes unnecessary environmental damage.

Davis ended by saying that she doesn't believe there will be a time where we will ever fully solve all social and political issues, but rather, as we struggle, we become more aware of other issues. “That is what is so exciting about being an activist today”, she concluded, to the sound of thunderous applause.

Natalie Csengeri is a barrister at Farringdon Chambers and Vice Chair of the Haldane Society

International Women's Conference

'Can lawyers be effective and principles that are so

Reports

Pictures: Thomas Schmidt



Pictured here are some of the many speakers at the conference (left to right): Dr Marina Prentoulis; Louise Christian and Frances Webber; Alexandra Muñoz Valdez and Ahlam Beydoun; Sarah Ricca; Alexandra Muñoz Valdez; Wafa Kafarna; and Gareth Peirce.

Putting the red in the red light: the debate on the decriminalisation of prostitution

This workshop addressed the decriminalisation of prostitution and the form that this should take. Broadly, the workshop debate fell into two camps – those who wish to decriminalise sex workers and those who favour criminalising the users of sex services.

Under current laws, prostitution itself is not illegal but activities around it are – running brothels is banned, as is soliciting sex on the street.

The industry has long lobbied for decriminalising sex workers. Current restrictions prevent sex workers from, for example, working together in flats or houses, which could greatly increase safety. Sex workers are less commonly advocates of criminalising users – they wish to protect their trade and argue that they could be forced into potentially more dangerous, underground situations.

Advocates argue that individuals rarely choose prostitution as a career and want to see a ban on the use of sexual services enacted together with policies to lift individuals out of prostitution and prevent others from entering it.

The concern is that implementation will take time and, in the meantime, sex workers remain vulnerable. Those against the criminalisation of users argue that 'moral' legislation, effectively banning the trade of sexual services between consenting adults, is not the appropriate forum for addressing socio-economic change.

Women and environmental justice

What has climate change got to do with women? And what has any of this got to do with the law? I was flummoxed by these questions and that is why I attended this workshop, facilitated by Melanie Strickland, a solicitor and climate change activist. Strickland sandwiched a period of reflection and discussion between recitations of two poems – a powerful form of political repertoire – by fellow environmental activists. She began with Helen Moore's *Glory Be To Gaia* while we delegates contemplated our thankfulness for the natural environment. We were then shown a number of images variously depicting the tar sands in Canada, Steve Bell-style cartoons inviting us to consider the despair or apathy-inducing obfuscation of the dominant narrative around climate change: white men in suits. Climate change is an issue created by their boardroom antics, with discussion around climate change also moderated by elite white men. Climate change creates poverty, and poverty has a woman's face, since it is women who are typically left to undertake care work. Melanie closed the workshop by reciting Nnimmo Bassey's poem *I Will Not Dance To Your Beat*. The poem threatens to expose the evil greed of the oil magnates, and denounce those who insist on do-nothing false solutions to climate change, such as carbon offsetting.

Taking justice into our own hands

Izzy Köksal from Housing Action Southwark and Lambeth (HASL) and Lizzie O'Shea, a litigator and academic, led the discussion in this workshop. Köksal – who was joined by other HASL members – discussed her experience of 'direct action casework' and addressing housing problems through mutual support, and O'Shea brought her experience both as a lawyer and an academic to a discussion of alternative routes to justice.

The workshop also discussed alternative forms of justice for violence against women, and the difficulty that many face in co-operating with prosecutions brought by the state. It was an informative session, and provided a valuable space to discuss individual concepts of 'justice' and how to achieve it. It also directly addressed a theme that permeated the whole conference: what is the role of a radical lawyer? Can lawyers be effective if their role is confined to the systems and principles that are so often oppressive and sexist?

if their role is confined to the systems often oppressive and sexist?’



Migrants and borders: changing the dialogue

This very topical workshop which exposed some of the key concerns on the ground in the ongoing refugee crisis. Natasha Tsangarides, who has been volunteering in the Pikpa camp on Lesbos, spoke of how Syrians are considered refugees while other nationalities are not, and as a result Syrians are being accommodated in better conditions than people of other nationalities on the basis that aid agencies are supporting refugees, ‘not migrants’. As a result a rhetoric of ‘deserving’ and ‘non-deserving’ refugees has permeated refugee camps on Lesbos and nationalities are demonstrating against each other. Open, self-sufficient camps are being created without funding, such as the Pikpa camp which is crowdfunded.

It was highlighted that many have no access to legal advice and have not even been advised that they have the right to claim asylum in Greece. The fact that Frontex employees are essentially making decisions on asylum claims at European hotspots is extremely concerning. It appears that EU standards are being comprehensively eroded. Furthermore, no responsibility has been taken for the deaths of migrants in Europe. There is an increasingly hostile environment towards migrants, refugees and those seeking asylum in Europe, and this needs to be challenged. The workshop

acknowledged that achievements have been made in Europe through policy and campaigning, however litigation on the issues is now required.

The erosion of legal aid within the UK (particularly in England and Wales), the impact of austerity, and more stringent ‘anti-immigration’ policies present increasing barriers to access to justice. As Angela Davis said during her keynote speech, lawyering alone may not be enough, but progressive lawyers undertaking work with knowledge and understanding of the mass movement/civil sphere may be more effective. We need to be aware of the impact of capitalism on society. We must work together, use the law, challenge it, challenge the framework within which it was created, and think dynamically about how we fight.

From the conference and workshops there was a call for greater collaboration among European lawyers on the issue of migration, which is already being pursued in the form of the Migrants Network; and for greater collaboration amongst lawyers and activists within the UK in relation to all areas of law covered by the conference. Immigration practitioners in the UK will be interested to note that the Immigration Law Practitioners’ Association has created a Scottish Regional Working Group, which aims to lead to greater collaboration throughout the UK.

Women political prisoners

We hardly hear about female political prisoners in conferences. This time was different and, thanks to the Haldane Society, the ‘women political prisoners’ workshop an opportunity for me to discuss the situation of female political prisoners in Iran.

It is impossible to speak about the female political prisoners in Iran without speaking about the Islamic regime and their draconian laws, which are imposed on millions of Iranians. The revolution in 1979, in which women played a major role, was hijacked by Islamists. Soon after, the regime started attacking women, initially by imposing the Islamic dress code and this was followed by other laws and punishments for those who didn’t submit to them. Women showed courage and strength through their defiance.

All aspects of women’s lives, including their dignity, were continuously attacked, but women in Iran could not be easily silenced and were a driving force in many major uprisings. During the last 36 years thousands of women have been, and are still being, arrested, tortured and executed because of their struggle against the Islamic regime in Iran. Their voices need to be echoed. Shiva Mahbobi (shiva.mahbobi@gmail.com) is spokesperson for the Campaign to Free Political Prisoners in Iran.

>>>

ICONS RAILTON ROAD





AN ICONOGRAPHIC ART INSTALLATION BY JON DANIEL IN RECOGNITION OF:

CLR JAMES WINIFRED ATWELL DARCUS HOWE LINTON KWESI JOHNSON FARRUKH DHONDY OLIVE MORRIS

Socialist Lawyer

Magazine of the Haldane
Society of Socialist Lawyers
Number 72, February 2016
www.haldane.org

This work by designer and artist Jon Daniel is installed on the windows and doors of Brixton Advice Centre. It celebrates some of the people involved in the building's radical history; it has been an important political, social and cultural space since the 1970s and is now an independent law centre.



International Women's Conference

'It was astonishing – and solidarity of the workers a

Reports



Regulation of the porn industry

'Are you in favour of bombing Syria? No? Then you must be a supporter of terrorism'.

It was, I must admit, an unexpected opening to a workshop on the regulation of pornography. But it made Jane Fae's point rather well: just because you are opposed to a method of dealing with something, does not mean that you endorse the thing to be dealt with.

This very much set the tone for the workshop: that all views were welcome, lazy thinking was not, and anyone expecting neat answers might have to go elsewhere.

The workshop was broadly split into two halves. In the first half Fae provided a fascinating account of the history of regulation followed by an analysis of the current regulatory framework. In the second half discussion ranged from issues surrounding 'revenge porn' to what counts as 'realistic' and how to define consent. We also explored the problem of discriminatory interpretation and enforcement by prosecutors and police.

This unique workshop illuminated issues that too often disappear in the highly charged debate surrounding pornography. For me, it was yet another example of the International Women's Conference providing a space for exploration of under-discussed perspectives.

Reaching hidden communities

Jeanne Mirer and Jamila Duncan-Bosu gave different insights into 'hidden communities' from both sides of the Atlantic. Jeanne – who is a well-established lawyer in the labour movement – discussed her work helping to unionise migrant workers in the United States. Given the general hostility in US law and society towards both trade unions and migrants it was astonishing – and touching – to hear her describe the solidarity of the workers and the victories they had achieved.

Jamila specialises in representing victims of trafficking. She gave an informative and troubling insight into the legislative framework that is intended to protect victims of trafficking. She gave the impression of an inefficient and arcane series of provisions, which is badly misunderstood by the authorities and designed to make it extraordinarily difficult for trafficked people to seek justice.

Migrant women in the UK

Charlotte Threipland has just launched *A Safe Place to Call Home*, a report on the conditions in which women with uncertain status in the UK are forced to live with their children. The AIRE Centre's Emma Lough talked about the plight of EEA national women in prison in the UK.

A Safe Place to Call Home was commissioned jointly by Hackney Law Centre and Hackney Migrant Centre and funded by the Children's Strategic Legal Fund. It looks into the standard of accommodation for women and children provided by London local authorities after a social services assessment. The report demonstrates that across 17 London local authorities, 64% of the accommodation surveyed had damp and mould, families were living in rooms below housing law standards and many were statutorily overcrowded. All families were sharing cooking facilities with others. Such conditions can lead to asthma and eczema as well as stress and anxiety affecting the mental health of both mothers and children and lowering the children's ability to study.

The families were moved frequently and with no notice, leading to further disruption from schools, workplaces and support networks. The report includes a series of recommendations to central and local government.

Our thanks to **Sarah Crawford, James Dunn, Agnieszka Gabrianka-Hin Lyndsey Sambrooks-Wright** and **Virginia Santini** who wrote and compiled

touching – to hear her describe the
and the victories they had achieved.’



Lough described how EEA national women in prison are deported if they are found guilty of more than three petty criminal offences or receive three sentences of more than three months. The Immigration Act 2014 means that they can only appeal out-of-country against deportation decisions, with the inevitable difficulties in getting evidence of their ties to the UK. Many of these young, vulnerable women have children in the UK and the Home Office usually decides that if the children can be cared for by either family or social services they do not need their mothers as carers! The Convention on the Rights of the Child, establishing that any decision is to be in the child's best interests and prevent irreversible harm, is ignored.

The women affected are mainly 19 and 20-year-olds from Eastern Europe and Portugal. Many have been trafficked by criminal networks who force them to work in the sex trade and to commit fraud and crimes under duress. They are penalised for the lack of stability within their families.

There was a lively discussion about how the work of the projects can enhance awareness of the exploitation of migrant women. The AIRE Centre project has only been running for eight months and hopes to engage communities in its work and to publish statistics. *A Safe Place to Call Home* can be downloaded online, and has been relied on in two cases against Sandwell District Council.

Trans*forming society

Roz Kaveney and Natacha Kennedy led Trans*forming Society, a fascinating workshop on the challenges faced by transgender women.

Kennedy, a former primary school teacher, conducts research into transgender issues at Goldsmiths College and campaigns for transgender human rights. Kennedy presented her hypothesis that the weakly discursively saturated, but strongly institutionalised, nature of cultural cisgenderism leads to a culture and ideology that is harmful to trans people and particularly trans children. Kennedy argued that the pervasive nature of such a culture prevents young trans people from becoming fully intelligible to themselves and those around them. The resulting emotional damage to trans teenagers and children can be significant.

Kaveney is a writer, critic and poet, alongside her work as a transgender rights activist. She is also a founding member of Feminists Against Censorship and is a former deputy chair of Liberty. Kaveney was instrumental in the production of the Gender Recognition Act 2004 and spoke in detail about the problems in the implementation of the Act, particularly for those who fall outside a binary gender system. Both speakers have spent years combating the prejudices faced by transgendered women and it was a privilege to hear them speak.

The state and women's bodies

The patriarchal capitalist system's violence and brutality towards women's bodies and rights was a central topic of the International Women's Conference. Delegates heard about the breadth of state's willingness to inflict violence on women's bodies, and how government authorities and the police frequently fail to intervene when others perpetrate abuse and torture: government surveillance operations target female activists and trick them into opening up the most private and personal aspects of their lives and bodies to undercover policemen (which Helen Steel described as 'body-hacking'); women suffer rape and torture in armed conflicts and highly-militarised societies (for which nobody is held to account); refugee women are systematically abused by both state and non-state actors (which sees women subject to forced prostitution, rape, sexual harassment, social ostracisation and the xenophobic denial of vital health and maternity care once they reach Europe). Finally, there are hidden abuses of 'non-state torture' in the form of sexual abuse of women and children in the context of patriarchal families, which were also exposed in the most poignant way by survivor and activist Elizabeth Gordon.

Picture: Jess Hurd / reportdigital.co.uk

dley, Arthur Kendrick, Shiva Mahbobi, Wendy Pettifer, Fiona McPhail,
these reports.

International Women's Conference

Migrant women battle for access to maternity care

Legal barriers are increasingly used in nearly all European countries to deny or restrict migrants' access to health and welfare services, which particularly affects irregular or undocumented migrants. **Rayah Feldman** uses the example of policies towards maternity care in 14 European countries to consider the impact of such restrictions and to explore the reasons for them.

The right to health for irregular migrants is limited both in Europe and internationally. The European Convention on Human Rights provides for the right to emergency care derived from the requirement to protect the right to life. In relation to maternity care the UN Convention on the Rights of the Child provides for children's right to access health services including states' obligation 'to ensure appropriate pre-natal and post-natal healthcare for mothers'. Under the Convention on the Elimination of Discrimination against Women, states are also obliged 'to grant women appropriate services in connection with pregnancy, confinement and the post-natal period, granting cost-free services where necessary, as well as adequate nutrition during pregnancy and lactation'. However, these provisions have limited enforceability, their language is imprecise, and there are problems in implementing them within different healthcare systems.

The maternity care needs of migrant women

Given that pregnancy and childbirth are widely regarded as necessitating special provision,

Picture: Thomas Schmidt



Rayah Feldman, Maternity Action. Rayah took part in a panel discussion on migrant and refugee women at the International Women's Conference, together with Frances Webber, Dr Dorys Quintana Cruz and Dr Marina Prentoulis. It was chaired by Louise Christian.

maternity care can be viewed as fundamental to universal healthcare. Barriers to maternity care for undocumented migrant women may thus be seen not just as problems for such women, but also as an indicator of how well other, less valued health needs of undocumented people are likely to be met. Moreover, the adverse effects of poor maternity care are visible in poor pregnancy outcomes.

Migrant women are liable to have higher-risk pregnancies than women from host communities. Many obstetricians regard all pregnancies among migrant women as potentially high risk for both social and medical reasons. This is because pregnant migrant women in Europe generally experience worse pregnancy outcomes than their peers, with significantly higher risks of low birth weight, pre-term delivery, and perinatal mortality.

Undocumented migrant women, in particular, face high social risks to their pregnancies stemming from their personal history and current legal situation. These risks include poverty and homelessness or precarious housing and a greater likelihood of having experienced sexual or other violence including domestic abuse. In addition such women >>>

MIGRANTS
MAKE
THE
NHS!

Picture: Jess Hurd / reportdigital.co.uk

>>> may have poor command of the language of the host country, be unfamiliar with its health care systems, and frequently (and often realistically) fear being reported to immigration authorities by healthcare institutions. These factors affect women's mental health, increasing often pre-existing stress and depression. They can also lead to women entering maternity care much later in pregnancy than is recommended.

Migrant women also have higher risks of medical complications in pregnancy due to underlying health conditions such as heart disease, high blood pressure, HIV and diabetes. Some may also have experienced female genital cutting (FGM). In addition, previous poor obstetric histories may also cause medical complications in the current pregnancy. Some of these conditions will only be identified during maternity care, which is a crucial time during which midwives can highlight and address complex needs to improve the health of women and their families. Indeed, good practice recommendations to address the care needs of women with high-risk pregnancies stress good history taking at their first booking for maternity care, more frequent antenatal appointments, and continuity of care in the same unit, and ideally with the same midwife.

But despite the additional health needs of this group of women, many and varied barriers limit access even to those services to which undocumented migrants are entitled. Administrative barriers, incorrect refusals of care due to lack of awareness or discrimination, lack of knowledge about their rights and how to access care on the part of migrants, and fear or risk of detection through service use are major barriers. Financial barriers may also be key if health services are chargeable.

Undocumented migrant women's access to maternity care in 14 EU countries

Our study of policies for maternity care provision for undocumented migrants in 14 of the 15 'EU15' states (member states existing prior to the accession of ten candidate countries in 2004) paints a varied picture of formal provision. We have classified maternity provision for undocumented migrants into four categories: comprehensive health provision including maternity care; limited health provision including maternity care; contradictory policies; and no provision for general health or maternity care. This classification only refers to provision for people without regular access to the health system in the country where they are living. All the countries reviewed have universal healthcare systems financed through compulsory insurance or general taxation. In some countries there is standard co-payment for some or all medical services which may restrict access to people who are destitute. For example, in the UK, although GP treatment and emergency care is currently free at the point of delivery, there is normally co-payment for prescriptions, dental treatment, optical care and a number of other treatments.

Generic barriers to care for undocumented migrants

Studies show that even in countries with good or nominal provision, barriers to provision exist. For example, in France this can include



Formal provision of maternity care in 14 EU member states

Comprehensive provision including maternity care:

● France

The following are examples of the services provided in a country in each of the four categories.

Comprehensive provision – France

France is the only country surveyed that provides almost full services for most undocumented migrants. AME (*Aide Médicale d'Etat* – state medical aid) offers full medical care, free at the point of delivery, for undocumented migrants with limited resources who have been resident over three months. AME is granted for one year. Applicants must provide proof of address and income. Where residence over three months can't be proved, entitlement exists for care deemed urgent. This is also funded by the state. Maternity care is included as part of AME and emergency care, and includes abortion. For non-AME emergency care hospitals must confirm patient eligibility.

Limited provision including maternity care – Sweden

Since 2012 undocumented adults have the same limited rights to health as asylum seekers. This

Limited provision including maternity care:

- Belgium
- Italy
- Netherlands
- Portugal
- Spain
- Sweden

provides 'access to health care that cannot be postponed' on payment of a €6 visit fee. Such care includes maternal health care, abortion care and counselling for contraceptives. Overall funding is provided by the state but local municipalities have the power to provide further services.

Contradictory policies – UK

The UK has introduced a health surcharge for most people not 'ordinarily resident' in the UK entitling them to almost all NHS care without charge. Ordinary residence is defined as applying only to people with indefinite leave to remain (ILR) in the UK if they are not EEA nationals. Asylum seekers and refused asylum seekers supported by the Home Office are entitled to all NHS care and a few other 'vulnerable' groups such as victims of trafficking or sexual violence. This means that it is mainly undocumented migrants and short-term visitors who do not pay the visa surcharge who are excluded from access to NHS care.

Current UK policy provides universal access to primary and

Contradictory policies (sanctions undermine benefits of formal provision):

- Germany
- UK

emergency care, but most secondary (hospital) care is chargeable at 150% of the standard NHS tariff. Some conditions, notably TB, HIV and other sexually transmitted infections are also exempt from charges. However, 'immediately necessary' and 'urgent care that cannot be delayed' does not need to be paid in advance of treatment though it is still chargeable. All maternity care is deemed 'immediately necessary', so in principle, all maternity care including antenatal care, delivery, and postnatal care is available to undocumented women who will nevertheless be billed for their care.

In addition, hospital trusts are 'encouraged' to inform the Home Office if an overseas patient owes more than £1,000 for her treatment. The Home Office is likely to refuse any further immigration or visa application in such cases unless the debt is paid. This sanction, combined with high costs of care, acts as a deterrent to women accessing maternity care. Charges for

No provision for general health care or maternity care:

- Austria
- Denmark
- Finland
- Greece
- Ireland

standard maternity care including routine antenatal care, delivery and standard postnatal care can be as much as £4,190.

No provision for general health care or maternity care – Austria

There is no entitlement for any non-insured people, including undocumented migrants, to access health services except emergency care, which is also subject to charging. Some conditions such as TB treatment and HIV (testing only) are exempt on public health grounds. Emergency care includes childbirth but not general maternity care. Unpaid healthcare bills continue to be payable after a person has regularised her immigration status.

Healthcare for undocumented migrants is virtually dependent on non-state providers. Some voluntary organisations provide care to such migrants funded through federal and local grants and voluntary work by medical professionals. However both professionals' and migrants' lack of awareness of alternative providers can result in very late presentation.

lack of health insurance at any given time, inability to afford out-of-pocket fees, or a failure to qualify for health schemes for the destitute that provide 100% coverage. These problems arise from the complexity of the national health insurance system in France. In all countries that do provide care, some patients are unaware of their rights or have been refused care even if they are entitled to it. Indeed the complexity of, and frequent changes to, rules based on immigration status (which may not be clear either to a patient or professional) makes it likely that they will be misapplied.

From external borders to internal border control

We have to look at political rather than pragmatic factors to explain the complex regulations governing undocumented migrants' access to national health systems. Imposing charges on people who are unable to pay makes little sense, and developing new administrative regimes for special groups is cumbersome and expensive. A study by the

European Union Agency for Fundamental Rights has shown that healthcare charges for poor people are not cost-effective. In relation to maternity care, the costs of postnatal care for newborns with low birth weight or who are premature is much higher than that for full term or normal birth weight babies. In countries like the UK and Sweden with healthcare systems funded from general taxation it is also much more complicated to impose charges on particular groups than to treat everyone in the same way.

Increasingly governments are seeking to strengthen external border controls by extending them to areas of life *inside* countries of migration. Welfare, including health provision, is being used as a major means of limiting migrants' rights, to create what Teresa May has called 'an increasingly hostile environment'. Germany and the UK explicitly link their healthcare policies to immigration controls. The immigration sanction for NHS debt introduced in the UK in 2011 has already been mentioned. In Germany, undocumented migrants have a

right to access care for 'serious illness or acute pain' if they obtain a *Krankenschein* (medical insurance card) in advance from social welfare offices. These offices have a legal duty to report undocumented migrants to the Foreigners Office.

In both of these countries clinicians are exempt from the requirement to report because of their protection through medical confidentiality. However, clinicians have little autonomy to practise outside national bureaucratic health systems, not least because of how payment is organised within health care systems.

There is undoubtedly a tension between the state's use of public (and in some countries private) institutions to regulate and control migration and migrant activities, and states' obligations under human rights treaties and conventions. In the UK the right to healthcare is rarely raised as part of a defence of migrants' human rights and it would seem that at present the capacity of states to restrict access to health is stronger than the claims and provisions of any human rights instruments.

★ Haldane Society of Socialist Lawyers

International
Women's
Conference }



Gaza

The impact of conflict on women

Picture: Jess Hurd / reportdigital.co.uk

Wafa Kafarna looks at the results of interviews with women from the Gaza strip who went through the 2014 war.

Over a year after the July-August 2014 Israeli military operation on Gaza, it is clear that women remain profoundly affected by the events. The conflict left more than 2,200 dead and more than 19,000 homes destroyed or uninhabitable. The Norwegian Refugee Council has interviewed women from Gaza and reported on the impact of the operation on their lives.

"I still can't understand how I didn't get injured when others died or were injured. I saw the rocket coming down. I can picture it as it came down. It was red. It was coming down towards me. This cannot escape my mind. Now if I hear war planes I feel terrified".

At the peak of the conflict, according to United Nations Office for the Coordination of Humanitarian Affairs, 485,000 Palestinians (or 28 per cent of the population) were internally displaced. Only three of the 117 people who took part in the focus group discussions for research by the Norwegian Refugee Council had remained in their homes: the rest were displaced, most of them multiple times. They fled to relatives, friends or neighbours and then to the United Nations Relief and Works Agency (UNRWA) schools. The women talked about their experiences of displacement, and for pregnant women the experience of giving birth while displaced during the conflict. Shireen, who fled her home in Rafah and was staying at an UNRWA school, gave birth during the conflict: "I went alone to the hospital to give birth, and then returned to the UN school with my newborn baby [...] We were sleeping on a cardboard box on the floor".

The women participating in this study recalled sharing classrooms with 50-60 people and the struggle to keep the space clean and their children free from disease, as well as issues with privacy for themselves and their daughters. Three of the UNRWA collective centres were hit by Israel on 24th and 30th July and 3rd August 2014, killing 45 people, including 17 children. The attacks led to widespread fear and panic among those sheltering in the schools, and a clear sense among those interviewed that nowhere was safe.

Since the 2014 attacks the most pressing concern for many has been the damage to, or destruction of their homes. 48 of the 117 participants interviewed said that they had not yet been able to return home, because their homes had either been destroyed or were not safe to return to. Some whose homes suffered minor damage to their homes have received some assistance. Many others were dealing with the uncertainty as to when they would receive help with rebuilding or repairing their homes so they could return. They wanted more information from agencies.

Another priority for women is support for their children. Almost all of the women who >>>

>>> spoke in the focus groups identified their children, grandchildren or other young relatives as having been profoundly affected by the war. They spoke of the children having nightmares linked to their experiences and talked of children exhibiting behavioural problems and difficulties studying at school. The women wanted this to be a priority for those who were looking at providing assistance to families in Gaza. One focus group took place in an UNRWA school in the Khan Younis area where psycho-social support is being provided through an NGO. One woman talked about her children who are now receiving counselling: “The children stopped having faith in us as parents. My children can see that their mother can’t protect them. My five children clutched on to me during the war [...] We were wondering when we would die. The children are now getting better”.

Unemployment rates in Gaza are at 45 per cent and 1.3 million people were classified as being food insecure and vulnerable to food insecurity and therefore it is not surprising that unemployment and a lack of jobs is a pressing concern, with many women expressing their fears for their children’s futures. One woman said: “There is no work. I have four sons and they don’t work and so they can’t marry. They all live with me in one room”.

Based on those findings the Norwegian Refugee Council has made a number of recommendations.

- **Increased advocacy efforts in relation to the impact of conflict on women:** Advocacy efforts directed towards the Israeli authorities, in shadow reports and reports to Special Rapporteurs and to the international diplomatic community, should highlight the impact on women of Israeli military operations and the destruction of homes. Such efforts should call for accountability as well as an end to the blockade, which has devastated livelihoods. Case studies collected by NGOs can be effective ways of highlighting this impact and the need for accountability and the end of the blockade. Advocacy efforts must also note the actions of militant groups and the



Picture: Eduardo Soteras Jaill

authorities within Gaza that contribute to the ongoing conflict, with its resultant impact on women.

- **Act on recommendations in the UNFPA study to implement psycho-social support for women and girls where this has not already taken place.** This should particularly focus on women in areas that have been particularly affected by the war in 2014 and the blockade such as Khuza’a, Beit Hanoun, Al-Shuja’iyya and areas around Rafah. Where possible, the existing provision of support for children should be extended to meet the needs of all affected persons and should be linked with psycho-social support for parents and caregivers to provide an integrated approach for families.

- **Extend and support programmes by community-based organisations and women’s organisations that provide employment and training to women.** Many of these have been badly affected by the war and require support and funding. Small projects that focus on women such as agricultural projects and traditional cooking can provide training for women in essential skills and an opportunity to support their family financially.

- **Extend programmes of cash for work to provide employment and money for families with dignity.** Increasing opportunities for men and women to work outside the home can relieve stress on families both financially and emotionally and decrease the likelihood of domestic violence.

- **Take into account the concerns raised by women about the conditions during the conflict for future contingency planning.** While noting the various improvements made by UNRWA to the collective centres during and after the conflict, there are some further basic protections that could be taken, such as ensuring toilets and bathrooms are single-sex and improving safety and security in those areas by providing locks, better provision for pregnant women, women with newborn babies and the elderly and priority allocation of resources to these groups. While the level of disease and sickness was low considering the

This paper was given as part of the panel session ‘Women in Conflict and Peace’, which featured Alejandra Munoz Valdez, Barbara Spinelli and Dr Alham Beydoun. It was chaired by Siobhan Lloyd.

magnitude of the conflict, hygiene and cleanliness particularly in bathrooms could be further improved to prevent and minimise the risk of illness in crowded environments.

- **Continue to ensure the active involvement of women in decision-making and committees in all areas of decision making, including the running of the shelters, during conflict.** As noted in the report, UNRWA did make efforts to ensure equal representation of women in IDP committees in the centres. However the perception of some women interviewed was clearly that more could have been done to ensure their voice was heard and their concerns addressed.

- **Put in place a clear strategy to disseminate information about the Gaza Reconstruction Mechanism to both women and men, as well as information about assistance for those who have lost their livelihoods.** Existing methods include the internet and press announcements and should also include broadcasts on popular radio stations. Women's CBOs in rural areas provide an existing network to families living in remote and hard-to-reach areas and to women who have no access to the internet. Outreach sessions should be conducted with these organisations to ensure that women are updated regarding the GRM as well as their own individual cases. Further, information disseminated should include information about what assistance is available for those who have lost their livelihoods as a result of the conflict whether in businesses, agriculture or fishing.

- **Consultation of women in reconstruction programmes:** Ensure that women as well as men are consulted about reconstruction programmes that involve the reconstruction or repair of their homes. Women should also be involved as decision makers and participants in any plans and proposals for large-scale housing projects that will affect them and their communities. It is not sufficient to dispense information to the head of the household and expect information to be passed on from and to women in the household. Women have different needs and priorities and they should



Picture: Jess Hurd / reportdigital.co.uk

For further information please contact Wafa Kafarna, ICLA Project Manager – Gaza (wafa.kafarna@nrc.no). The Norwegian Refugee Council (NRC) provides humanitarian assistance to the residents of the Gaza Strip through a variety of programmes in the areas of Shelter, Education, Water, Sanitation and Hygiene (WASH), Urban Displacement Out of Camps (UDOC), Gender Based Violence (GBV), Child Protection and Information, Counselling and Legal Assistance (ICLA). Through its on-going work and as a result of earlier research studies conducted in the Gaza Strip, NRC has a particular concern about the impact on women of the on-going occupation and periodic conflict and the significant challenges faced by women in accessing their rights.

be given a full opportunity to be engaged in the process.

- **Devising an appropriate and fair system of priority need for the reconstruction programme.** It is not clear if one exists and what the process will be for allocating the next stages of assistance to those with destroyed homes. Ensure that women are included and consulted with during any assessments of need.

- **A recommendation that rights of usage contracts and housing undertakings should include both the husband and wife as the named beneficiary of the allocated housing** has been adopted by UNRWA in order to provide security of tenure to both partners. This is extremely positive and it is recommended that a similar approach is implemented by all agencies providing new housing in the Gaza Strip.

- **All INGOs should consider their obligations to ensure security of tenure for women in their shelter and housing programmes.** Consideration should be given to whether new homes built in the Gaza Strip with international agency involvement should be designated to husbands and wives jointly. As a minimum men and women should be informed of options for them and the potential consequences for them if women are excluded from the title.

- **Establishment of links between Gender-Based Violence and Housing, Land and Property programmes:** There are still few links made between GBV and HLP issues and it appears that the prevalence of GBV increased during the recent conflict. There are no powers to exclude violent men from the home and women often lack security of tenure to enable them to remain in the home in these circumstances. It is recommended that more consideration is given to how domestic violence/GBV links with women's lack of security of tenure and what programmes can be developed around this issue. This may include possible criminal law reform to include provisions to exclude violent men from their homes as well as measures to increase security of tenure for women.

Whatever we wear
Wherever we go
Yes means yes

NO MEANS

NO

Rashida Manjoo on how to effectively challenge violence against women

Widespread and pervasive violation of our human rights

Introduction

As noted in numerous publications emanating from the United Nations, civil society organisations and academia, violence against women is acknowledged as a pervasive and widespread violation of human rights, which impedes the realisation of civil, political, social, cultural, economic, and development rights. The consequence is the obstruction of the exercise of effective citizenship by women, owing to this human rights violation. Viewing violence against women through the human rights and citizenship framework serves to emphasise women's rights to equality, dignity, bodily integrity, participation and the exercise of agency, among others, thus highlighting the importance of women participating as full citizens in their families, communities and country. The realisation of a broad range of human rights which are essential to the exercise of full participatory citizenship also requires an emphasis on the need for States to fulfil their responsibilities for preventing and responding to violence against women and girls, whether such violence occurs in the public or private spheres.

States have an affirmative obligation to respect, protect and fulfil human rights, including fulfilling the responsibility to act with due diligence to eliminate violence against women. Unfortunately, pervasive levels of violence, and a culture of impunity for crimes experienced by women, fundamentally jeopardise the realisation of

numerous human rights. In many parts of the world, despite positive institutional and legislative developments adopted to address violence against women, I have noted that discriminatory laws and practices continue. Also, the persistence of patriarchal attitudes towards women, as well as stereotypical views regarding what their roles and responsibilities should be, further contribute to the violation of their human rights. The lack of effective accountability measures results in impunity, both in respect of State

authorities for their failure to protect against and prevent harm, and also the failure to hold perpetrators accountable.

In 2014, in my reports to the United Nations Human Rights Council and the General Assembly, I highlighted some of the continuing and new challenges to effectively addressing violence against women. The challenges identified include: the shift to gender neutrality; the persisting public-private dichotomy in responses to violence against women; the failure of States to act with due diligence in eliminating violence against women; the lack of transformative remedies that address the root causes of violence against women, including individual, institutional and structural aspects; the financial crisis, austerity measures and cuts in social services spending; the shift in understanding of gendered responses and the move towards a focus on men and boys; and the lack of a legally binding instrument to hold both States and non-State actors accountable for this human rights violation, as a violation in and of itself.

Continuing challenges

Although there has been progress in advancing women and girls' human rights and gender equality at the national, regional and international level, there are gaps and challenges that have not been adequately addressed. Continuing and new challenges that hamper efforts to promote the >>>

Picture: Thomas Schmidt



Rashida Manjoo is a former UN Special Rapporteur on Violence against Women, its Causes and Consequences, and is now at the Department of Public Law, University of Cape Town, South Africa. She was a keynote speaker at the Conference.

>>> human rights of women and girls can be linked largely to the lack of a holistic approach that addresses individual, institutional and structural factors that are a cause and a consequence of violence against women and girls.

1. Persisting public-private dichotomy in responses to violence against women

The public-private dichotomy is a manifestation of inequality and discrimination in responses to violence against women that ultimately relegates women to the private sphere. It is reinforced by the gender pay gap; the 'double burden' of production and reproduction, which often limits the autonomy of women; and systems of guardianship, legal instruments or social control systems which are consciously designed to limit women's access to the public sphere. Even in societies in which women make sustained and significant contributions to the workforce, their roles in public life tend to be curtailed, and issues considered to be of particular concern to women are often assumed to be private. Violence against women is no exception to this viewpoint, and, the belief that personal relationships are not a matter of public concern, continues to affect responses in the prevention, reporting and prosecution of cases of violence.

2. Failure of States to act with due diligence to eliminate violence against women

My 2013 report to the UN Human Rights Council reiterates that State responsibility to act with due diligence requires that there is a framework for discussing the responsibility of states through a dual lens of individual due diligence and systemic due diligence. Individual due diligence refers to the obligations that States owe to particular individuals, or groups of individuals, including to prevent, protect, punish and provide effective remedies. Individual due diligence places an obligation on the State to assist victims in rebuilding their lives and moving forward, and also in addressing protection and socio-economic needs. Systemic due diligence refers to the obligations that States have to ensure a holistic and sustained model of prevention, protection, punishment and reparations for acts of violence against women and girls. State responsibility to act with due diligence requires States to punish not just the perpetrators, but also those who fail in their duty to respond to the violation.

3. Lack of transformative remedies that address the root causes of violence against women

Transformative remedies require that the problem of violence against women is acknowledged as a widespread and systemic issue, and not as an individualised issue. It also requires a recognition that this violation requires specific measures to address it as a gender-specific human rights violation. In my 2011 report to the UN Human Rights Council, I articulate a gender-specific and holistic framework, which must include protection, prevention and empowerment approaches. Responses in laws, policies and programmes require that the historical, current and future realities of the lives of

women be taken into account, through a lens of indivisibility and interdependency of human rights. Compromising the resources available to women's groups for service provision and advocacy undermines transformative change efforts. Furthermore, the creation of hierarchies of violence against women is problematic. This is particularly evident in the articulation of sexual violence in conflict situations as being different and exceptional, as opposed to it being a continuation of a pattern of violence that is exacerbated in times of conflict. This has led to the disproportionate focus of attention and resources to the manifestation of violence against women in conflict situations, to the detriment and ignoring of the low-level 'warfare' that women and girls experience in their homes and communities on a daily basis.

4. Financial crisis, austerity measures and cuts in social services spending

Austerity measures have negatively impacted budgets linked to social services spending. Also there is deep concern about the weakening of the women's rights sector



Picture: Jess Hurd / reportdigital.co.uk

resulting from funding cuts for core service provision, including legal, policy and advocacy work. Furthermore, cuts in funding to non-governmental organisations, as a form of reprisal against the work of women human rights defenders, is also of concern.

5. Lack of a legally binding instrument

In my reports I have highlighted the existence of a normative gap under international human rights law in respect of violence against women and girls. The approach of States is one of 'normativity without legality' and this is reflected in the endorsement of principles by states, through declarations and resolutions, but without the development and adoption of specific binding legal commitments as regards violence against women. My 2014 report to the UN Human Rights Council addresses this issue and raises crucial questions about State responsibility to act with due diligence, and also the responsibility of the State, as the

ultimate duty bearer, to protect women and girls.

6. Shift in understanding of gendered responses and the move towards neutrality in responses

In the past few years, there has been a move away from the understanding of a 'gender focus' as articulated and understood in international normative frameworks and by women's rights activists and organisations. Despite numerous studies confirming that women are disproportionately impacted by violence, the concept of gender neutrality is framed in a way that understands violence as a universal threat to which all persons are potentially vulnerable. In some contexts, this understanding promotes the view that male victims of violence require, and deserve, comparable resources to those afforded to female victims. This perspective ignores the reality that violence against men does not occur as a result of pervasive inequality and discrimination, and also that it is neither systemic nor pandemic in the way that violence against women indisputably is. Attempts to combine or synthesise all forms of violence into a 'gender-neutral' framework tend to result in a depoliticised or diluted discourse, which abandons the transformative agenda. A different set of normative and practical measures is required to respond to and prevent violence against women and, equally importantly, to achieve the international law obligation of substantive equality, as opposed to formal equality.

Conclusion

The international community explicitly acknowledged violence against women as a human rights issue when it adopted the Vienna Declaration and Programme of Action at the World Conference on Human Rights in 1993. Standard setting developments, such as General Recommendations 12, 19 and 30 of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Declaration on the Elimination of Violence against women, promote an understanding of violence against women as a form of discrimination. These 'soft law' developments have assisted in providing visibility to a hidden problem, but have not been sufficient in addressing accountability and effective redress for violations. It is my view that it is time to consider the adoption of a United Nations binding international instrument on violence against women and girls, with its own monitoring body; or alternatively the adoption of an Optional Protocol to CEDAW, with its own monitoring body. Such an instrument and monitoring body would ensure that States are held accountable to standards that are legally binding; it would provide a globally applicable comprehensive normative framework for the protection of women and girls from all forms of violence; it would have a specific monitoring body to substantively provide in-depth analysis of both general and country-level developments; and it would serve an educative function for States in the translating of international normative standards into national laws, policies and programmes.

International Women's Conference } }

One of the workshops at the conference showed how fighting for gender equality helps the struggles for abortion rights, reports **Virginia Santini**

Our right to choose: challenging the State's control over women's bodies

In anti-abortion laws we see the violence that the State and the legal system inflicts on women's bodies, and – by extension – on women's rights, voices and lives. The notion that the Irish government can forcefully induce a woman who wants an abortion into labour against her will and legally commit a physical assault on her – as in the recent case of Miss Y in Ireland – highlights the extent to which physical and psychological violence against women is normalised and to which, in the Irish context, is also firmly entrenched in the country's legal framework. The 8th Amendment to the Irish constitution puts the rights and status of a foetus on the same level as those of a living and sentient woman, and that frames the sexist and oppressive anti-abortion laws in Ireland and the misogynistic attitudes that prevail in Irish political and legal institutions. In Poland, women are stigmatised and isolated for seeking an abortion through legislation that criminalises every person in a woman's support network who attempts to help her obtain a termination, even though the country's criminal justice system does not directly

punish the woman herself. There are many more examples of this abuse across the world. There is a constant threat that those abortion rights won might be stripped from women by conservative, neoliberal and misogynistic governments. There have been attempts in the USA as well as in Spain via the former Partido Popular led government in 2013 and there has been a rise of anti-choice campaigns in Scotland after the devolution of abortion law.

The abortion rights workshop focused on how struggles for abortion rights must be understood and fought from a feminist perspective. The right to access abortion is not just a medical or a legal issue, it is a feminist issue and it concerns the fundamental right of a woman to choose what she does with – and what is done to – her body. The workshop at the International Women's Conference (IWC)'s consensus was that it is only by fighting for greater gender equality in societies across the world that we protect universal access to abortion services and advance women's liberation and security.

Sinead Kennedy from Coalition to Repeal the 8th Amendment explained the >>>

>>> development of abortion rights activism in both the North and South of Ireland from the 1970s until the present day. The inclusion of the 8th Amendment in the Irish constitution led to landmark cases that exposed how – in practice – the constitution enabled the Irish government to control women’s bodies and lives in an extreme and brutal way. Examples include the X case, in which the government won an injunction preventing a 14-year-old rape victim from traveling to England to abort an unwanted pregnancy, and the recent tragic death of Savita Halappanavar, who was denied a life-saving abortion following complications with her pregnancy owing to the inability and unwillingness of Irish doctors to terminate a pregnancy even out of necessity to save a woman’s life. Sinead discussed the popular uproar that Savita’s death triggered and the subsequent limited changes to Irish law, which included a provision for abortion in the highly restrictive circumstances where a woman’s physical health and life is at risk. Sinead explained that this has resulted in a cruel system where a woman who wants an abortion where her mental health is at risk has to go before a panel of three doctors to prove that she is suicidal.

Anna Gall from Ciocia Basia, a German-based campaign group that works closely with Polish women, described a very similar situation in which abortion is completely inaccessible and public opinion in Poland is, for the most part, hostile, which perpetuates a cycle of oppressive legislation and limits on public space for feminist campaigners to challenge sexism in law and public life.

The group discussed how restrictions on abortion access are based on controlling women’s lives and their role in society. Speakers highlighted the failure to provide comprehensive sexual and reproductive education in schools both north and south of the Irish border and the inadequate availability of information on safe sex and effective contraception. It was noted that restricting access to abortion goes hand-in-hand with restricting women’s sexual freedom and maintaining patriarchal and capitalist ideas on women’s roles in society.

Anti-choice legislation is inextricably linked with the struggle for gay rights in Ireland, as both represent a direct challenge to the influence exerted by the Catholic church over the Irish State and society. The church has played a significant role in the dissemination of misinformation and anti-choice propaganda for decades). Both struggles demonstrate the struggle for sexual freedom and resistance to the traditional patriarchal family structure, which is vital to the survival of the capitalist economic system. Participants considered whether repealing the 8th Amendment could be achieved through a referendum, as with the successful campaign to legalise gay marriage.

Anti-abortion laws have a class dimension. They are linked to austerity, which disproportionately affects women. As Mara Clarke from Abortion Support Network pointed out, the majority of women who are affected by Ireland’s criminalisation of abortion are the most vulnerable: working class women; refugees; minors and the homeless. These are also the individuals who are most severely affected by austerity. In Mara’s powerful words: ‘women with money have options and women without money have babies’.

One of the most interesting discussions focused on the moral arguments for and against abortion and divisions that exist even within the pro-choice movement. The workshop questioned how the focus on the legalisation of abortion only in cases of rape, incest and fatal foetal abnormality rather than calling for reproductive rights to be accessible for all women in every circumstance and without the need for justification damages the cause of women’s liberation. The group debated whether identifying ‘good’ and ‘bad’ abortions perpetuates the moralistic and sexist attitudes. Rather than focusing on extreme cases pro-choice activists should promote the idea that access to abortion is about providing a basic and fundamental healthcare service to women and focus on a woman’s right to choose in any circumstance. Focusing on the most extreme and heart-wrenching cases encourages judgments about women’s motivations and imply that other people can have a say over whether a woman has a good enough reason for wanting an abortion. Access to abortion can be empowering. Focusing on tragic cases can reduce women to victims of circumstance and violence, rather than agents with control over their bodies and lives.

Finally, the ways in which lawyers and activists have circumvented restrictive anti-abortion laws in creative and challenging ways was also discussed in the workshop. Examples included the ‘abortion train’, which enabled illegal abortion pills to enter the Republic of Ireland through Northern Ireland. Another example of direct action and solidarity were the 200 activists who signed a letter asking to be prosecuted for having had or assisted someone else to have an illegal abortion in reaction to the Director of Public Prosecutions for Northern Ireland’s decision to prosecute a mother in Northern Ireland for helping her 16-year-old daughter obtain the abortion pill. Anna Gall discussed the ways in which human rights law can be used to advance the case for abortion. She said it is

Picture: Jess Hurd / reportdigital.co.uk





important for pro-choice activists to define and conceptualise access to abortion as a human right and use mechanisms such as the European Convention on Human Rights to challenge restrictive anti-choice legislation. The day after the IWC closed its discussions, the High Court in Belfast ruled that Northern Ireland's abortion laws constitute a human rights violation and maintained that abortion should be accessible in cases of rape, incest and foetal fatal abnormality. Although it is only a small step in the right direction to achieving universal free, safe and legal abortions in Ireland and Northern Ireland we must acknowledge the victory for women's rights that this decision represents, and how much it vindicates the arguments that pro-choice activists, feminists and socialists have made for decades. However, it is still only the beginning. We ultimately work to live in a society in which a woman's relationship with her body is her own and in which no woman has to justify or explain taking control of her life.

The abortion workshop ended with a spirit of resistance, reflecting the wider sentiment surrounding the IWC, and particularly the feeling that the fight is on against sexism in the context of an oppressive and exploitative global capitalist system. The struggle for abortion rights is inextricably linked to the fight for women's liberation, to the struggle against male ownership of women's bodies and to the desire to dismantle the patriarchal family system which breeds both economic and gender oppression. The spirit of the abortion rights sessions at the IWC was that we must unite the struggle for abortion rights with other feminist, anti-racist and anti-capitalist campaigns and we must demand the right to choose what we do with our bodies, our sexuality and our lives without apology. If not now, when for women in Ireland, Poland and beyond?

Please donate to Abortion Support Network to help women from Ireland, Northern Ireland and the Isle of Man access vital funds to access abortions in England. If you are interested in finding out more about how we can show our solidarity with comrades in Ireland fighting for abortion rights please contact the author at virginia.santini1990@gmail.com.

The Black Sash was founded on 19 May 1955 by Jean Sinclair, Ruth Foley, Elizabeth McLaren, Tertia Pybus, Jean Bosazza, and Helen Newton-Thompson. They initially campaigned against the removal of the mixed-race voters (known as 'coloured' in South Africa) from the voters' roll in the Cape Province. The 'Black Sash' was adopted to mark the mourning of the death of the South African constitution as the apartheid regime rolled out into every aspect of life. They used the privilege of white skin to protest in ways that the black community could not.

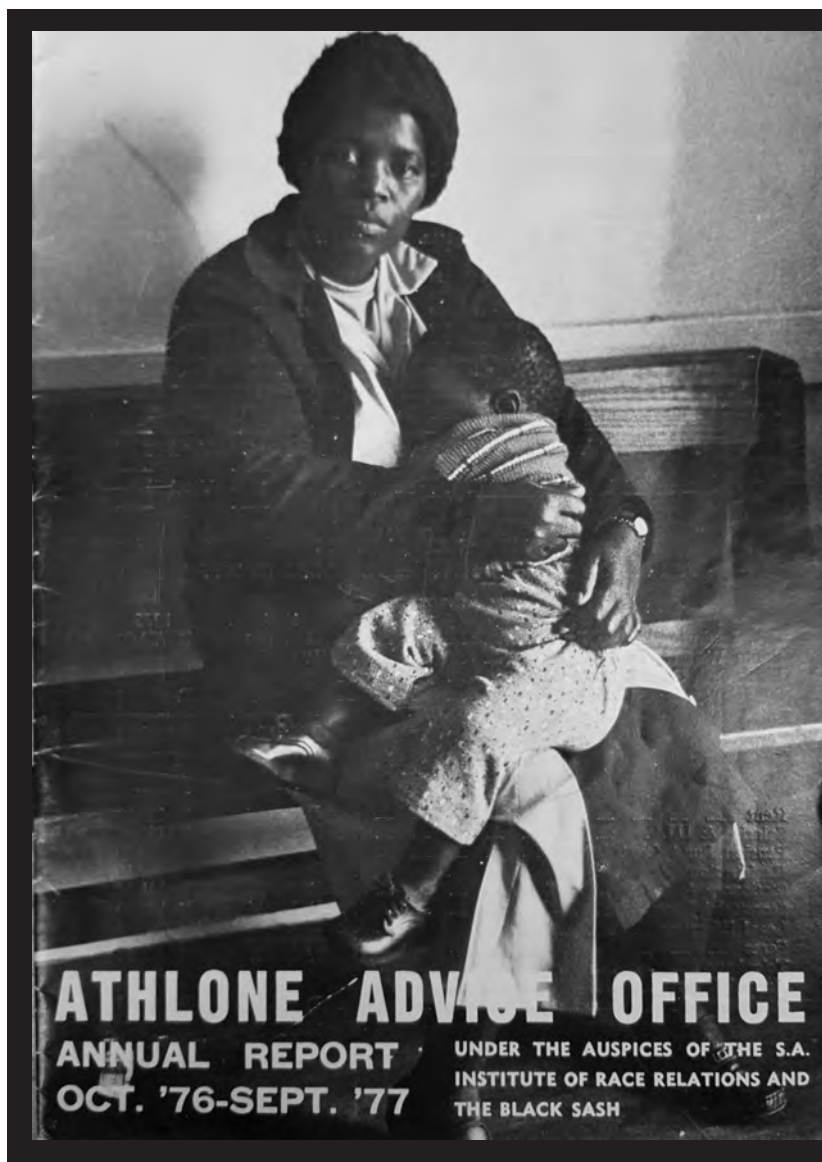
The first protest in 1955 saw 2,500 white women march in silence across Johannesburg. The photographs show how conventional and middle-class some of the women appeared to be, unlike many female demonstrators today. Images of protests and vigils from the 50s show the women in their Sunday best lined up in neat rows. Later they added a rose to the black sash, and a book representing the constitution, which emphasised their 'feminine' orientation and non-violent philosophy. The movement at first had a very liberal and moralistic feel, but this was to change.

The Black Sash held regular vigils outside parliament and, compared to black protesters, were initially treated with kid gloves by the police. However, many women faced condemnation from their own communities and it was not unusual for Black Sash women to be physically attacked by other whites. Many women joined Black Sash in secret: their husbands were not aware that they were protesting or assisting black communities when they were meant to be cleaning the house.

The movement also believed in practical solidarity and provided legal clinics staffed by volunteer caseworkers, with qualified lawyers donating *pro bono* hours to take cases to courts or labour boards. Most dealt with the hated 'pass laws'. The offices were busy and reports for the Johannesburg advice centre from August 1975 showed that the caseworkers conducted an average of 22.2 client interviews per day. They dealt with problems that are unimaginable now: South African bureaucracy had taken obfuscation and Kafkaesque delays to new levels. The random upturning of people's lives was part of the organised and deliberate harassment of the black population.

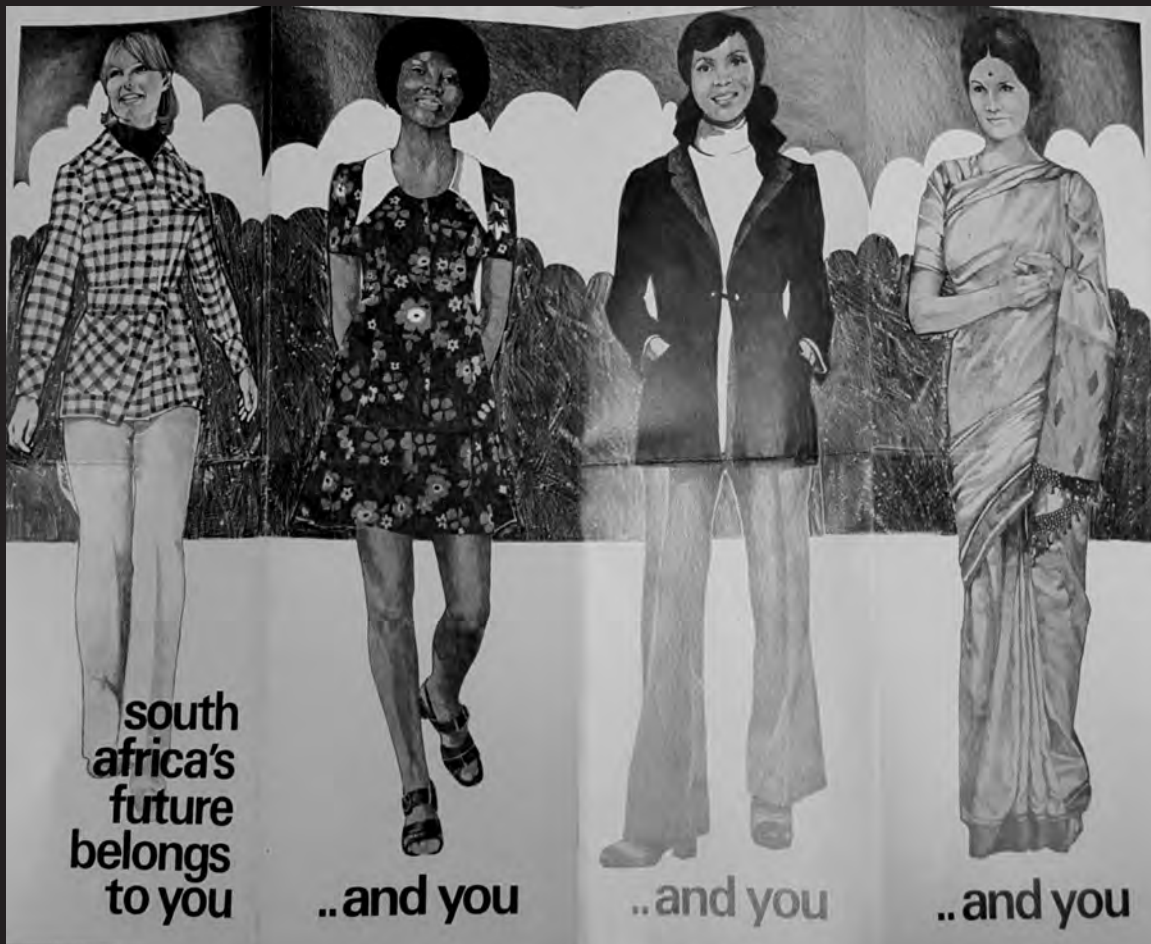
Case studies from 1976 paint a horrific picture of the pass laws. For example, Mr NSB's wife died, and he was told by the superintendent that he would lose his house if he did not marry again. He duly married but his new wife was refused permission to live with him. Mrs PEN had a 15-year-old child who had been in Johannesburg with her since he was four years old. After 10 years of investigation he was refused permission to live with her and was not given permission to live anywhere else. Mr AN was a paraplegic who was cared for by his two aunts in the township of Alexandria. He was refused permission to live with them as their employment was in central Johannesburg. Mr MEL has a job as a clerk, and was refused registration as there are too many clerks in Johannesburg.

Success rates in resolving these cases were low as there was little chance of justice in apartheid South Africa, and many of workers simply gave up in the face of incomprehensible decisions and delays. However, the Black Sash



The white women who stood up to be counted in South Africa

The 'Black Sash' movement fought Apartheid with protests, advice and other practical solidarity. **Rheian Davies** looks at the group whose role was recognised by Nelson Mandela on his release.



south
africa's
future
belongs
to you

..and you

..and you

..and you

The more the women engaged with the problems of apartheid the more political they became, rejecting 'cosmetic reforms' to administrative systems.

you
are a woman

are you concerned
about the future of
all South Africans?

are you disturbed by
the complexity of
our situation?

do you want
to know more
and do more?

you'll find many
others in the Black
Sash who think
like you.

we want you in
the Black Sash.

ALL ENQUIRIES SHOULD BE ADDRESSED TO

did win both legal and practical victories outside the law, such as persuading business owners to do the right thing in spite of the authorities. They also provided a bail fund, mostly for women, so that children would not be left unattended when one or both their parents were arrested. Between 1960 and 1980 there were more than two million pass law convictions. They carried on with their advice clinics despite lack of funding and burnout of volunteers (which are still familiar problems to us), and in the face of the mightiest state machineries ever assembled.

By the 1960s the Black Sash had lost much of its moral overtones and ran political campaigns about the effect of apartheid laws. Their *Charter for Women* shows how basic – such as the right to live with the family – were denied to African women. They also tried to prick the consciousness of the white population – leaflets showed re-settlement camps with accommodation for families 'the size of your study carpet'. The state peddled the lie of 'separate but equal'. So effective was the state control of information that, while much of the white population knew that the black population were poorer, they did not know the extent of the poverty or harassment. The movement monitored or witnessed arrests and the demolition of communities, and their physical presence gave them authority when

speaking to audiences about the atrocities that were not reported in the press.

They campaigned on housing and food poverty and on all other aspects of apartheid regime such as torture, terrorism laws, internment and the repression of protest. The more they engaged with the problems of apartheid, the more political they became: rejecting 'cosmetic reforms' to administrative systems. They never stood on a socialist platform, although many individuals were socialists who saw that the end of apartheid alone would not end discrimination and oppression. However, they did not limit themselves to democratic demands and called for minimum incomes, housing and healthcare and supported the ANC Freedom Charter.

They moved away from white-middle class membership and reached out to black women's organisations such as the African National Congress Women's League and Cape Association to Abolish Passes for African Women, and their recruitment material shows that they were aiming for multi-ethnic membership.

By the 1970s members of Black Sash were regularly arrested and detained and their families were harassed by the state, although they experienced better treatment because of their white skin. More repressive laws were passed to quell the growing protest against

Apartheid. By the 1980s laws were passed to limit protests to one person outside parliament. Members of Black Sash stood alone outside parliament and other government offices on a regular basis. They would also leave giant black sashes hanging from government buildings or on steps where events were due to take place.

They also took to the practice of 'ghosting' or 'haunting': single white women would follow government ministers to official openings and functions and stand by them in silence, always wearing their black sash. They also entered government buildings and silently followed government ministers around, which was surprisingly effective at perturbing these men: the same men who had no qualms about sending in tanks against children or torturing detainees.

Forty years of the Black Sash as a resistance movement came to an end with the dismantling of apartheid. Its role was recognised by Nelson Mandela on his release from prison. They took part in the talks that led to the truth and reconciliation commission. The organisation was reformed in 1995 as a non-racial social justice organisation and today it still runs legal clinics, recognising that the end of apartheid has still left behind a South Africa of poverty and inequality.

Rheian Davies is a solicitor at DH Law. For more information see www.blacksash.org.za

‘National security my arse’

‘United We Stand’ by Neil Gore, with music by John Kirkpatrick, produced by Townsend Productions. Bussey Building/CLF Art Cafe, Peckham, November 2015

United We Stand is a new play by Neil Gore about the Shrewsbury 24. It was directed by Louise Townsend, whose two-man production had energy, character and passion.

It told the story of the famous trial of 24 builders who were prosecuted for picketing offences in 1972. It focused on two of those men: Des Warren and picket-turned-actor Ricky Tomlinson (Bobby Grant in *Brookside*; DCI Charlie Wise in *Cracker*; Jim Royle in *The Royle Family*).

The Shrewsbury pickets were men who struggled to earn a living as builders in the 1960s and seventies. In 1972, for the first time, there was a national builders’ strike in support of a weekly wage and the abolition of the ‘lump’ system of casual labour. The way in which the strikers exercised their freedom of association led to police involvement: arrests, charges, prosecutions – and convictions.

The pickets were charged with conspiracy, which arose from a joint union meeting held on 31st August 1972 in Chester, at which many of the 24 had been present. Des Warren and his five co-defendants were charged with conspiracy to intimidate, unlawful assembly and affray. The trial lasted for thirteen weeks. Three men were convicted of all three charges: Des Warren (sentenced to three years’ imprisonment); Ricky Tomlinson (sentenced to two years’ imprisonment) and John McKinsie Jones (sentenced to nine months’ imprisonment). The remaining three men, John Carpenter, John Elfy Llywarch



and Kenneth O’Shea were found guilty of unlawful assembly and received suspended sentences.

The play explored the human story behind the Shrewsbury 24. In 1973 Ricky Tomlinson, who had joined the flying pickets at Shrewsbury the previous year, was sentenced to two years’ immediate imprisonment. He had been found guilty of a public order offence recorded as ‘conspiracy to intimidate’. He served sixteen months’ and was released in 1975. He was later given honorary freedom of the city of Liverpool.

The play was an entertaining – and convincing – portrayal of the alliances and conflicts between the men and the police, and among themselves. It featured several poems that Tomlinson wrote while he was a serving prisoner. The script broke off into music with several 1970s popular and political songs arranged and sung by renowned folk musician John Kirkpatrick.

The play was a vivid (and, if it ever matters to creative drama) historically plausible snapshot into the lives of those 24 men: the pressures they faced to get reliable

work and reasonable pay. Building work was dangerous. Conditions were often toxic – both on site and politically. In the 1970s, building workers faced the most dangerous working conditions in the UK, and for the poorest wages. They were the least visible group among blue-collar workers. They were in need of leadership, direction and organisation. When they achieved that in 1972 they were put on trial for it.

While there are some modern-day parallels (zero-hours contracts and the struggle for a living wage) one major difference is that in the 1970s, when these men faced trial, workers’ rights had no currency in Parliament. Now, however, all major parties claim to stand for workers’ rights.

Forty-two years later their convictions sustain the Shrewsbury 24 Campaign, which, seeks to overturn what it contends were the unjust prosecutions and convictions of building workers. The play was a timely reminder that we await the decision of the Criminal Cases Review Commission. Will the CCRC, which was presented with petitions for the safety of the

convictions to be investigated in April 2012, refer the convictions to the Court of Appeal?

On 9th December 2015 Steve Rotherham MP and Andy Burnham, then Shadow Home Secretary, led a parliamentary debate. They asked the government to release all the files relating to the charges, trials, and convictions of the Shrewsbury Pickets in 1973/4. On 16th December 2015 Tomlinson directly petitioned the government to pardon his conviction of more than forty years’ vintage. He delivered a petition to Number 10, bearing 100,000 signatures in support. He also called for the publication of documents relating to the prosecution, which are not due to be released to the public until 2021. Their present retention is justified, Oliver Letwin announced, on the grounds of national security. Tomlinson, now aged seventy-four, quipped, “National security? My arse.”

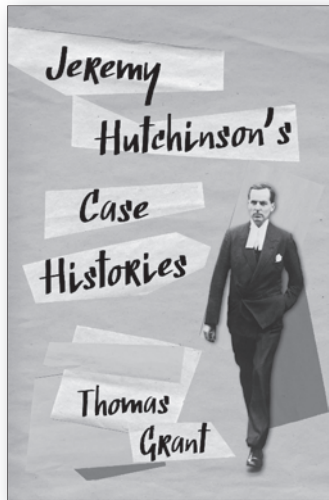
The campaign committee set up by several of the convicted Shrewsbury pickets had a strong presence in the audience. At the press night there were rabble-raising speeches from Len McCluskey and Tom Watson MP.

The pickets happened, and the trials took place, not very far from where I went to school in Shropshire. The strikers’ protests and prosecutions were part of the syllabus. This is living history. The CCRC will (shortly?) rule on whether the justice administered at the time should bear appellate scrutiny.

Perhaps the last word should go to John Platt-Mills QC. He defended Des Warren at Shrewsbury Crown Court in October 1973. He wrote in his autobiography, published in January 2002, *Muck, Silk and Socialism: Recollections of a Left-wing Queen’s Counsel*:

‘The trial of the Shrewsbury pickets is the only case I know of where the government has ordered a prosecution in defiance of the advice of senior police and prosecution authorities.’

Abigail Bright



A law unto himself: vital reading

'Jeremy Hutchinson's Case Histories' by Thomas Grant QC, ISBN 9781444799736, published by John Murray. Hardcover £19.99.

It is not every day that one gets the chance to talk with a centenarian, let alone the best criminal barrister of the 1960s, seventies and eighties. Jeremy Hutchinson argued the most important civil liberties cases of the post-war era: he called EM Forster as a star witness; he grew up knowing T.S. Eliot, Lytton Strachey, Roger Fry, Duncan Grant and the Bloomsbury Set; he had been married to left-wing actress Dame Peggy Ashcroft and was even once a member of the Haldane Society (as noted with disapproval in his MI5 file).

All of which would give reason enough to want to meet the subject of Thomas Grant QC's brilliantly written *Jeremy Hutchinson's Case Histories*. I remember admiring Hutchinson in action in the 'ABC' trial (*R v Aubrey, Berry & Campbell* (1978)), where his scathingly charming advocacy had exposed the government's secret practice of jury-rigging.

It's not a whodunit, so I won't upset the reader if I give away the

ending. Jeremy Hutchinson's postscript, written at age 99, condenses into eleven pages not only some brilliant insights into the art of advocacy but a bravura defence of the rule of law and access to justice. 'All that stands between the citizen and the all-powerful state' he writes 'is the judiciary, the jury and the wholly independent advocate. To undermine the ability of the advocate to practise, to remove the advocate's independence and access to the public, is the first act of the autocrat.'

He was a founder of the Criminal Bar Association in 1969 and writes with special authority when he charges both political parties with undermining the rule of law. Blair, 'an arrogant and power-hungry politician', and Blunkett, 'his autocratic and oppressive Home Secretary' abolished the office of Lord Chancellor 'on a whim', without giving proper thought to what should replace it:

'[T]he modern 'acceptable' replacement turns out to be but a puny shadow of the past: enter Mr Grayling, whose job before entering Parliament is recorded as 'management consultant', a transient workaday politician on his way up the political ladder [...] with no experience of the law, no knowledge of how the criminal process works, no understanding of the delicate checks and balances we have put in place over the last fifty years to bring justice to all people, in the exercise of his 'management skills' he has deliberately destroyed the present system and in doing so in all probability the proper functioning of the criminal Bar'.

'This process of destruction has been managed by a minister of justice whose official oath requires him 'to respect the rule of law' and 'defend the independence of the judiciary' and 'to ensure the provision of resources for the efficient and effective support of the courts'.

I wrote to tell Tom Grant how much I admired both his writing and his subject. Would there be any chance I could talk to Lord Hutchinson myself? With his generous help I made an

appointment, and I met Tom himself over a delightful impromptu dinner at Owen Davies' flat in the Temple. Some twenty years our junior, Tom prodded us for our reminiscences of starting at the Bar in the seventies. For us, as for Jeremy, our only 'advocacy training' was from our pupil supervisors and 'in the cauldron of the London magistrates courts'. We too would arrive early to observe 'the mood and character of the person who was to judge my client: their prejudices, qualities and deficiencies'.

We agreed with Jeremy's observations on jury advocacy. The advocate should have 'a deep interest in human nature. Juries are remarkably conscientious: they respond to pleas for fairness, for courage, for independence and the overcoming of prejudices, especially when there is a need to resist the pressures of an interfering judge'. Though trials may have moments of drama: 'The fundamental difference between actor and advocate must never be forgotten: whereas the actor must lose himself and become somebody else, the advocate must always be him or herself. To copy or adopt the mannerisms or conduct of someone else in court is at once to lose all credibility'.

Even with Tom's reassurance that Jeremy would be absolutely charming, I still felt rather nervous at meeting him. He swiftly put me at ease and we fell into one of the most delightful conversations I have ever had.

We talked about his enthusiasm for taking on the establishment, born of vivid recollections of the hunger marches of the 1930s, making him determined that there should never be a return to such times. The post-war spirit of wanting to change British society had led him to stand for Labour in 1945 in the unwinning constituency of Westminster, even canvassing 10 Downing Street. He initially joined the Haldane Society but left to join the Society of Labour Lawyers when it was set up by Gerald Gardiner, who was to lead him in the Lady Chatterley trial before going on to become Lord Chancellor.

The ABC case had charged two investigative journalists and an ex-soldier with illegal possession of military official secrets. As Jeremy's withering cross-examination of the Crown's witnesses demonstrated, these so-called secrets were in fact easily available to any member of the public who wished to find out about them. Tom Grant's retelling shows how important it is that the courts, and not the government, should be the final arbiter of what constitutes the national interest. Jeremy did a great public service when, playing a hunch, he casually asked the Old Bailey's clerk of the lists whether they had difficulty in getting jurors to serve on such 'security' cases. Oh no, the clerk assured him, not since prosecuting counsel had asked for the names and addresses of potential jurors for vetting purposes. Hutchinson expressed his indignation to the judge in open court. Crown counsel frankly acknowledged having requested the information 'to complete the checks which are normal in cases of this sort. Anyone known to be disloyal would obviously be disqualified'. Obviously!

The judge was unfazed and allowed the trial to continue. However, the jury was discharged when it later emerged that four jurors had previously signed the Official Secrets Act and one, the foreman, had served in the SAS. These revelations seemed shocking enough to us at the time but governments have since developed more sophisticated ways to bypass constitutional protections.

Unsurprisingly Jeremy is staunchly opposed to 'special advocates', 'secret courts' and 'closed materials'.

He is equally appalled at attacks on legal aid and contemptuous of bean-counting attempts to quantify the job of the advocate, noting from experience: 'Types of offence can never measure the seriousness of an offence [...] The skill required cannot be measured in the number of documents involved or the hours of work required'.

A teacher falsely accused of assault by a child, a black student stopped and searched at night and having drugs planted by a dishonest police officer, a civil servant >>>

>>> falsely charged with indecency in a public lavatory may all be involved with a minor offence, yet each faces devastation and requires an advocate of the highest skill to bring justice and salvation.

Tom Grant has spent many hours talking with senior barristers who were led by Jeremy in their younger years. The insights they gained from his approach to clients and evidence have left an indelible mark on their professional lives. Perhaps one of his most important lessons is: 'Time spent with a client before trial is never wasted'. In times when QCs rarely visited clients in prison before trial, he was an exception.

A strong critic of inhumane prison conditions, as he points out:

'To save many millions of pounds the Ministry of Justice has only to attend to another area of its responsibility: the crisis in our intolerably overcrowded prisons. The prison population has now grown to over 85,000 [...] Each of these prisoners costs the taxpayer an average of over £40,000 a year to keep. The 'warehousing' and humiliation of offenders in grossly full and inhuman conditions make meaningful education, constructive work, rehabilitation and self-respect impossible'.

He concludes: 'Real prison reform calls for imagination, courage and determination; the dismantling of legal aid a mere stroke of the pen'.

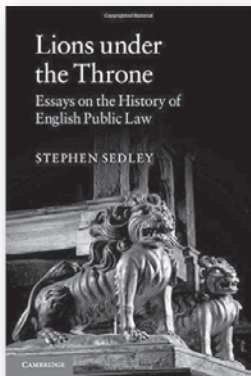
Tom Grant has trawled through Jeremy's own files to produce an excellently researched account of cases ranging from freedom of expression, like *Lady Chatterley, Last Tango, The Romans in Britain* and *Fanny Hill*, to security related issues like *George Blake*, the *Profumo* cases of *Vassall* and *Christine Keeler*, to 'Secret Society' cases against CND's anti-nuclear weapons campaigners and, under the heading of 'Eccentrics and Folk-Heroes' to the temporary misappropriation of the Duke of Wellington (*R v Bunton*) and the cases of the noted art forger Tom Keating and the drug-smuggling con artist Howard Marks.

Jeremy's personal postscript

alone should be required reading for every politician and civil servant who is considering tampering any further with the delicate machinery of justice, as well as every student and practitioner of law. It ends:

'My profession has given me the most rewarding, enthralling and happy working life and I am sad to write this valediction. My words may be described by some people as those of a 'foolish, fond old man'; the silence of the senior judiciary and in particular of the Lord Chief Justice gives some credence to this view. Nevertheless I hope that this book will interest and amuse the reader – and be a warning too'.

Richard Harvey



'Test drillings' into the rule of judges

'Lions Under The Throne'

by Stephen Sedley. ISBN 9781107559769. Published by Cambridge University Press, £64.99 hardback, £25.99 paperback

Lions under the Throne takes its title from Francis Bacon's injunction that judges should be 'lions, but yet lions under the throne'; for Sedley the ambiguity of the image characterises both the history of public law and the controversy that continues to surround it. This collection of essays, described by the author as a series of 'test drillings' into the

subject, is divided into two parts. Part I drills 'horizontally', exploring the development of law at particular historical moments, while part II adopts a 'vertical' approach, taking a series of legal and constitutional themes and tracing their historical origins and evolution into the debates of today.

Although it glances backwards to *Magna Carta* and beyond, the collection focuses its attention on the period between the Tudor monarchies and the present day. For me the historical entry point of the book was the striking, and initially counterintuitive, proposition that it was during the reign of Henry VIII that the transfer of power away from the monarch gained momentum. Although he emerged victorious from his power struggle with the Catholic Church, Henry VIII relied on Parliament to enact legislation not only to raise taxes but also to legitimise his attempts to seize power from the Pope and the monasteries. This in turn helped to legitimise the authority of Parliament as the dominant source of law. As Sedley describes, the following century-and-a-half saw the rise and fall of republicanism in England, the Restoration and in due course the Glorious Revolution and Bill of Rights. By the end of the seventeenth century the Bill of Rights had set out the terms by which William and Mary were to rule, namely by 'popular'

consent, and the rest is history.

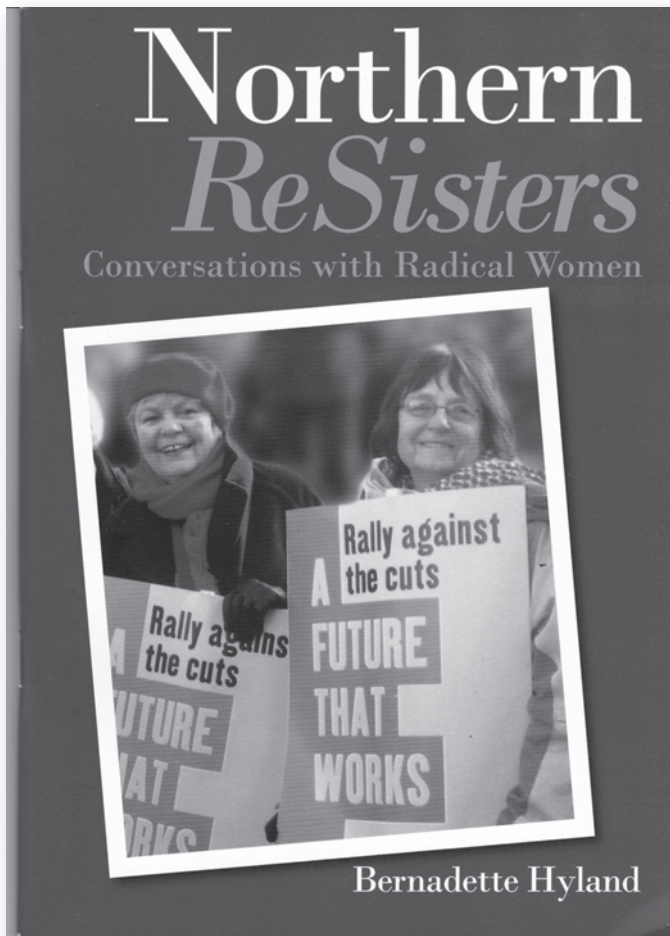
Except, of course, history is not a linear path, as Sedley makes clear. He gives an overview of the twists and turns taken by public law in the ensuing centuries, always with an eye on the shifting balance of power between parliament, executive and judiciary. Approaching the present day, he argues that the fundamental characteristic of the 20th Century was a dominant executive, weak parliament and newly quiescent judiciary. This was to change when, towards the end of the century, the judiciary became more active and public law enjoyed a renaissance, due at least in part to lawyers such as Sedley himself. However, as we are now painfully aware, the resurgence of judicial review did not go unnoticed, and it now finds itself under attack.

Part I of this book enriched my understanding of the role of public law within our constitutional system and laid the foundation for part II, which compellingly traces the influence and echoes of history in the constitutional issues facing us today. The thematic essays in part II cover a lot of ground, encompassing constitutional concepts (the royal prerogative; the separation of powers), aspects and principles of public law (the right to be heard; standing; public law and human rights) and

culminating in a review of the concept of the rule of law and its significance for the future of English public law. As might be expected, Sedley illustrates his arguments by reference to case law on a wide range of topics. However, as befits its importance, he repeatedly uses national security as a focus for his exploration of the role and parameters of public law, looking in particular at the regulation of state surveillance (or lack thereof) and the increased use of secret evidence. The influence exerted by the security services also causes him to question the viability of our traditional tripartite conception of the state and the separation of powers.

Looking to the future Sedley considers whether another shift is underway, ushering in a new constitutional model, built on the rule of law, which does not assume the ultimate deference of the judiciary to parliament on fundamental constitutional issues. The chances of such a realignment are not assessed in this book, although its historical perspective might encourage the reader to countenance the possibility. If the rule of law does come to be acknowledged as our guiding constitutional principle the image of a subordinate judiciary (lions or not) may be consigned to history.

Kate Stone



Inspiring interviews and articles about fighting back

'Northern ReSisters: Conversations with Radical Women' by Bernadette Hyland ISBN 987-0-9932247-0-6. Published by Mary Quaile Club

Bernadette Hyland's short and highly accessible book is a must-read for current and aspiring political activists. Set out in a clear and readable style, this book can be enjoyed by lawyers and non-lawyers alike.

It starts with interviews from nine women, all of whom come from the north of England. They shed light on the political campaigns and movements that these remarkable women have

been part of over the last 40 years. The interviews draw the reader in to the ordinary lives of some extraordinary women and provide a brief but welcome insight into the significant work that is taking, and always has taken, place in our northern communities.

It would be wrong to think that the working class in modern Britain has little to offer a progressive country. This book demonstrates the huge value of working class communities. Hyland's aim is to remind people that members of the working class continue to fight against unwelcome changes through

which the state affects people's lives. They are, and will continue for many years yet, to be highly influential. The book demonstrates that the working class is strong, active, forward-thinking and its force should be noticed.

The first of the interviews is with Betty Tebbs, age 97. It reveals a woman who has been driven by principles and a desire for change throughout her life. Confronted at the age of 14 with the realities of an unequal workplace, Betty joined her trade union and fought, successfully, for equal pay. The Second World War shaped the direction of Betty's energy and she became a lifelong campaigner for peace. Balancing community action with motherhood, Betty describes how this lifestyle was not always easy. Rushing home from work to feed her children and husband before rushing out again to attend a meeting only to return home late must have been hard. However, Betty has witnessed huge successes in her political work despite this 'juggling'. In the 1950s she organised a campaign against council house rent increases (which she successfully halved). She has also helped set up a battered women's refuge. By the 1980s she was travelling worldwide as chair of the National Assembly of Women. In the 1980s she led the British contingent of 150 peace activists on an international delegation to Libya.

Betty's interview sets the tone for the remainder of the book. The reader is introduced to women who have fought to save the NHS, challenge the Bedroom Tax and run a bookshop stocking political materials, to give just some examples. There is an impressive variety to each woman's work, yet there are common threads. The women have shown courage, determination and unwillingness to accept injustice.

The author shows the importance of education, and the value of trade unions in facilitating an educational

environment and providing education to women who may not have had the opportunity to learn in the classroom environment. She makes it clear that, with trade unions increasingly under threat, there is a risk that many working class people will miss out on the educational opportunities that they deserve.

The second half of the book is a collection of Hyland's own articles from 1988 to 2014. Her early articles focus on the hardship and difficulties faced by the Irish community in Britain in the 1980s and 1990s. She documents the stereotypes that the Irish in Britain Representation Group worked to overcome, the rights of prisoners for which Bernadette McAliskey fought and the significant injustice that Kate Magee experienced when arrested under the Prevention of Terrorism Act. Her later articles draw attention to the importance of trade unions and learning as a lifelong process. She also documents her interviews with famous and highly regarded northern female writers and actors including Sally Wainwright (writer of *Last Tango in Halifax*) and Maxine Peake.

Hyland's collection of interviews and articles deserves a place on the bookshelf of anyone with an interest in politics and, perhaps more importantly, in 'getting things done'. All of her interviewees are inspiring to men and women alike. They demonstrate the achievements that are possible through sustained hard work and dedication to a cause. Each interview concludes with a short piece of advice for the next generation of political activists. There is too much sound advice to reproduce it all here. However, perhaps the most important message is that the younger generations in the working class should not see their class as a hindrance to change. If you want it, listen to those around you and work towards achieving that change.

Kate Newman



Never miss an issue.

Join the Haldane Society now to receive this magazine three times a year – each February, June and October.

Join the **Haldane Society of Socialist Lawyers** www.haldane.org/join

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

Rate (tick which one applies):

- Students/pupils/unwaged/trade union branches/trades councils: **£20/year or £1.67/month**
- Practising barristers/solicitors/other employed: **£50/year or £4.17/month**
- Senior lawyers (15 years post-qualification): **£80/year or £6.67/month**
- Trade unions/libraries/commercial organisations: **£100/year or £8.34/month**

Name (CAPS).....

Address

.....

.....

.....

Postcode

Email

Standing Order

Please cancel all previous standing orders to the Haldane Society of Socialist Lawyers

Please transfer from my account no:

Name of BankSort code / /

Address (of branch).....

To the credit of: Haldane Society of Socialist Lawyers,
Account No 29214008, National Girobank, Bootle,
Merseyside G1R 0AA (sorting code 72 00 05)

The sum of £..... now and thereafter on the same date each
month/year (delete as applicable) until cancelled by me in writing

Signed Date

