Socialist Lawyer

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Haldane Society of Socialist Lawyers

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The Haldane Society was founded in 1930. It provides a forum for the discussion and analysis of law and the legal system, both nationally and internationally, from a socialist perspective. It holds frequent public meetings and conducts educational programmes.The Haldane Society is independent of any political party. Membership comprises lawyers, academics, students and legal workers as well as trade union and labour movement affiliates.

Socialist Lawyer

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A boggin' system ran by numpties

As the unnamed sage adorning the cover of this magazine so eloquently reminds us, the one thing that most threatens the habitability of our planet is the same that keeps our leaders employed: a system that prioritises profit over permanence.

It was wholly predictable that the outcome of COP26 would prove to be so dismal (see feature, pages 28 – 37). If the mainstream media is right, humanity's future rests in incompetent hands guided by crippled minds. The Scottish poet, nationalist and communist, Hugh MacDiarmid, wrote a suitable lament for our predicament in 1923, 'The Dying Earth':

Pitmirk the nicht: God's waukrife yet
An' lichtnin'-like his glances flit
An' sair, sair are the looks he gies
The auld earth as it dees.

[Pitch-black the night; God's awake yet
And lighting-like his glances flit
And sore, sore are the looks he gives
The old earth as it dies]

Thankfully, our scientific elite is not as doss as its political counterpart. An editorial this summer in the *BMJ*, mouthpiece of the British Medical Association, implored its readers to 'fundamentally rethink the global intellectual property system'. It described, in terms at once sober and incredulous, the daftness of our current system – something I'm sure our readers are only too aware of – in which taxpayers pay for innovation that is then gifted to private industry so that it can inflate prices and reap profit, with death and disease proliferating as a result. As most of the world languishes, the G7 and EU sit on hundreds of millions of surplus Covid-19 vaccines. Joe Biden dangled the carrot of a patent waiver in May this year, but the stick bearers have since been hard at work thwarting negotiations. As we go to press, the fatal deadlock remains.

Writing almost exactly a hundred years ago, the prominent Scottish suffragette and communist Helen Crawfurd instructed: 'We must think as we have never done in the past. We must scrap old outworn parts and renew them with some idea of the age in which we live and the enemy we have to deal with.' Following her revolutionary lead, the task of socialism is no longer to simply deliver us from barbarism, but to save the world from true disaster. Devising fairer (socialistic) rules to regulate and distribute medicine is vital.

Allow me to quote a third Scottish communist, the Glaswegian revolutionary John MacLean. Writing 113 years ago, MacLean observed: 'Capitalism is forging ahead at a terrific rate, and at an increasing rate; society is evolving at an unprecedented pace. Surely, then, we socialists cannot afford to grope; we must lead not follow capitalism.' Though the system is run by numpties, our movement has a pantheon of figures to get behind. In addition to the likes of MacLean, Crawfurd and MacDiarmid, socialist lawyers have individuals such as WP Roberts – a radical 19th century lawyer whose memory has recently been renewed with the republishing of his biography, reviewed below (pages 41-42) – and the late Georgia Lassoff, a young barrister and member of the Haldane Society who tragically passed away this year (her glowing obituary is at pages 24-27). I have faith that the brightness of legacies like those of Roberts and Lassoff is what will help us find a way out of the *pitmirk*.

Joe Latimer
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Duress, legality, and the spectre of capitalism

In a judgment handed down on 18th August 2021, the UK's Supreme Court turned its lawfully blinkered gaze on one of the foundations of capitalism: coercion (or rather, its legal expression, 'duress'.

Times Travel (TT, the claimant) sold tickets for flights between the UK and Pakistan, on which Pakistan International Airline Corp (PIAC, the defendant) held a monopoly. TT's business comprised of almost exclusively the sale of these tickets. TT sought to recover sums allegedly due for non-payment of commission after PIAC terminated their contract. PIAC offered to sign a new contract with TT, one of the terms of which was a waiver on the part of TT of any prior claims against PIAC for non-payment of the commission. TT agreed to the new contract but brought proceedings against PIAC for commission due under the old contract, claiming that the new contract was vitiated by duress.

Lords Hodge, Reed, Lloyd-Jones, and Kitchin dismissed TT's appeal from the Court of Appeal. They held that: (1) economic duress is established where (i) a threat or pressure is exerted by the defendant that is illegitimate; (ii) the illegitimate threat or pressure caused the claimant to enter into the contract; and (iii) the claimant must have had no reasonable alternative to giving in to the threat; (2) PIAC had not committed any reprehensible or unconscionable conduct so as to make its use of pressure illegitimate; (3) in the absence of a doctrine of inequality of bargaining power, a hard-nosed exercise of monopoly power will not by itself amount to illegitimate pressure, regardless of a bad faith assertion of a pre-existing legal entitlement which that organisation believes or knows to be incorrect.

Lord Burrows disagreed on the meaning of 'illegitimate threats' in relation to economic duress. In relation to a demand for a waiver by the threatened party of a claim against the threatening party, the demand is unjustified, thus the threat is illegitimate where: (i) the threatening party has deliberately created or increased the threatened party's vulnerability to the demand; and (ii) the threatening party does not genuinely believe that it has a defence, and there is no defence, to the claim being waived.

The interpretation of illegitimate pressure in Lord Hodge's leading judgment suggests a strong endorsement of the classical principle of freedom of contract. This principle had been questioned in the 1970s, for example Lord Denning's explicit criticism that the freedom of contract is often no 'freedom for the little man' (*George Mitchell (Chesterhall) Ltd v Finney Lock Seeds Ltd* [1983] QB 284, 297); his obiter attempt to formulate an explicit principle of inequality of bargaining power in *Lloyds Bank Ltd v Bundy* [1975] QB 326; and Lord Diplock's observation that restraint of trade is based not on 'some 19th-century economic theory about the benefit to the general public of freedom of trade, but the protection of those whose bargaining power is weak against being forced by those whose bargaining power is stronger to enter into bargains that are unconscionable.' (*A. Schroeder Music Publishing Co Ltd v Macauley (Formerly Instone)* [1974] 1 WLR 1308, 1315).

> 'Given the infancy of the doctrine of duress, *PIAC v TT* represents a missed opportunity on the part of the Supreme Court.'

Yet, by the late 1980s these overt attempts at creating the building blocks of a counter-principle to the freedom of contract had mostly been swept aside: for example by Lord Scarman in *National Westminster Bank Plc v Morgan* [1985] AC 686, in the context of a wider political climate of the 1980s which sought to bolster the free market and free contracting.

A vigil marked 14th June 2021 as the fourth

Whilst inequality of bargaining power was not at the centre of *PIAC v TT*, the majority took the opportunity to explicitly reject that counter-principle (see paragraphs 3 and 26), instead asserting that English law exists to 'protect the reasonable expectations of honest people when they enter into contracts' (paragraph 27).

As Evgeny Pashukanis asserts in *The General Theory of Law and Marxism* (first published in 1924) 'the relation of capitalist exploitation is mediated through the form of the contract.' There is a risk, arguably already realised, that if courts continue to cling to a classical notion of freedom of contract which is not reflected in

June

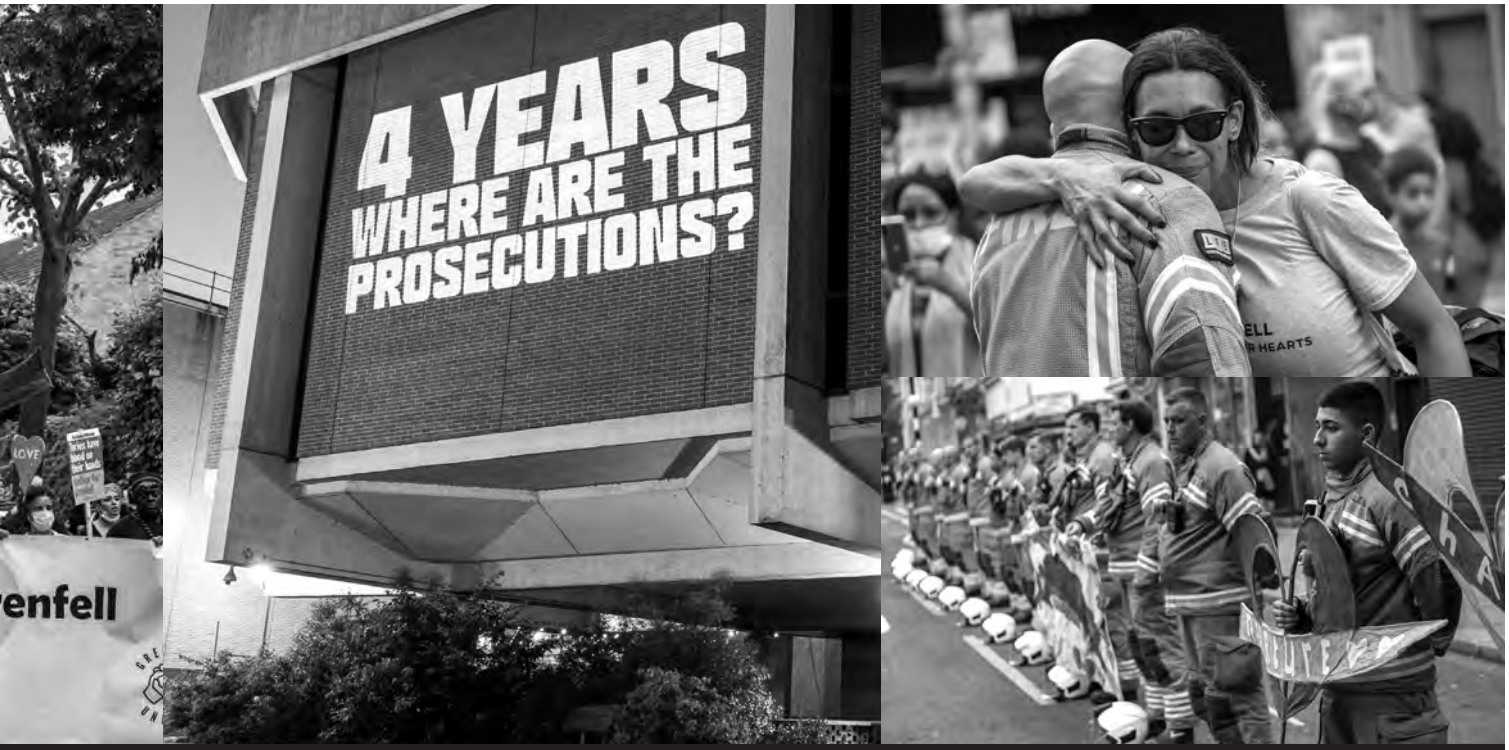
17: Justice Secretary Robert Buckland says he is 'deeply sorry' to rape victims who had been denied justice 'as a result of systemic failures'. Thousands of survivors have been failed by the government and campaigners said the measures announced lacked urgency and were underfunded.

18: Figures show that 4,242 cases were dealt with under the Single Justice Procedure in relation to Covid-19 offences in 2020. Given the lack of transparency with this 'fast-track', rushed and on-the-cheap process it is thought that hundreds of people were unlawfully prosecuted.

'Give alms to the oppressed.'
An 11-year-old school student was referred to the government's Prevent programme after a teacher mistook the word 'alms' for 'arms'.

22: The Stop Ecocide Foundation reveals a draft law aimed at the ICC, defining ecocide as 'unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and widespread or long term damage to the environment being caused by these acts.'

24: Rudy Guiliani is suspended from practising law in New York state following disciplinary proceedings over his 'demonstrably false and misleading statements to courts, lawmakers and the public at large' about voter fraud in the 2020 US presidential election.



Pictures: © Jess Hurd

anniversary of the Grenfell fire. 'Grenfell Next of Kin' projected slogans onto Kensington and Chelsea Town Hall demanding justice. Firefighters provided a guard of honour.

the economic realities of life, contract law will become unresponsive, dogmatic, and biased towards established interests at the expense of the vulnerable. In light of the relative infancy of the doctrine of duress, as compared with the long history of unconscionable bargains in equity, it is submitted that *PIAC v TT* represents a missed opportunity on the part of the Supreme Court to support a new conception which not only draws analogies from equitable notions of unconscionability, as Lord Hodge does, but which builds upon these notions to move this area of law away from the unrealistic paradigm of commercial organisations bargaining at arm's length, and in favour of a more equitable and social doctrine of lawful act economic duress which recognises that, as Lord Templeman noted in *AG Securities Ltd v Vaughan* [1990] 1 AC 417, 'in a state of housing shortage a person seeking residential accommodation may agree to anything to obtain shelter.'

Is the homeless person's will not overborne by the pressure of the landlord? Is the implied threat of destitution truly not illegitimate in instances of fire-and-rehire, where a company has no ulterior claim other than the right to terminate its employees' contracts? Courts have drawn doctrinal lines just short of entering this politically charged minefield on the basis that inequality of bargaining power is not recognised in English commercial law (for example, paragraph 57 of *PIAC v TT*). In *PIAC v TT*, the specific commercial nature of the case was emphasised. The whole language of the judgment was tailored towards the commercial context: for example, paragraphs 26, 28, 30, 50 and 57. Crucially, Lord Hodge held that the doctrine of lawful act economic duress will not apply where one commercial organisation exploits its position to 'extract a payment from another *commercial organisation*' (emphasis added).

As such, it is submitted that cases outside of this unique commercial context – such as between a landlord and tenant, or an employer and its employees – will not necessarily fall into the orthodox expression of freedom of contract enunciated here. It is to be hoped that when dealing precisely with those vulnerable groups who have most to lose from inequality of bargaining power and whose contracts least represent any real expression of their will, that courts will be open to transforming counter-principle to active doctrine.

Uther Naysmith

24: UN Special Rapporteur on human rights and the environment, David Boyd, says that the UK is introducing three pieces of legislation that will make human rights violations more likely to occur: the policing bill, the covert human intelligence sources bill and plans to weaken judicial review.

26: Six climate activists are arrested following protests in which seven tonnes of manure was dumped outside the buildings housing the *Daily Mail*, *Mail on Sunday, i, Independent, Evening Standard* and *The Daily Telegraph* office, in protest against the four billionaires who own 68 per cent of the UK's print media.

'Good [to] hit SH [Saddam Hussein] at same time? Not only OBL [Osama bin Laden].'

Donald Rumsfeld (who died on 29th June) dictated this to an aide after the 9/11 attacks

26: Four demonstrators, Nora Ziegler, Henrietta Cullinan, Joanna Frew and Chris Cole, who formed a blockade outside the DSEI arms fair in London have their convictions quashed by the Supreme Court, in what has been hailed as an affirmation of the right to protest.

27: The Chief Inspector of Probation warns that renationalising the management of offenders in the community will not be enough to put right the flaws of disastrous privatisation reforms introduced by the former Tory minister Chris Grayling.

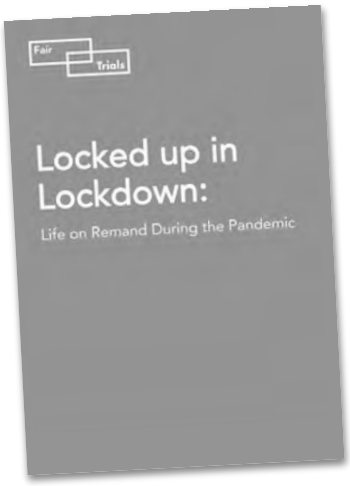
Locked up in lockdown – life on remand during the pandemic

'*We have been treated like animals for over a year now. We get 30 minutes of walking outside and spend the rest of the time locked up.*' **Dom***

The voices of people held in prison are often ignored or avoided. Not least the voices of those held on remand, many of whom have been left in a punishing carceral limbo by a crumbling justice system, waiting months, sometimes years, for trial.

The numbers affected are damning. In December 2020, there were over 12,000 people in prison waiting for their trial in England and Wales, the highest figure for six years. Those remanded are disproportionately Black, Asian and racially minoritised people. Last year, half of Black defendants were remanded during Crown Court proceedings, compared to 40 per cent of white defendants.

Anecdotal evidence also pointed strongly to people being held on remand for excessive periods. In May 2020, lawyers reported to Fair Trials that custody time limits '*may as well not exist*' and were being extended '*as a matter of routine*'. Later that year, the government tried to cover its back by temporarily extending the custody time limit to eight months. But in early 2021, after prolonged investigation, we uncovered that thousands of people were being held in prison awaiting trial beyond the limit: more than 2,500 people, a quarter of the remand population at the time, had been held longer than eight months. More than 3,600 people had been held longer than six months. The government had moved the goalposts, but they were still missing – with people's liberty and livelihoods at stake.



It is important to contextualise these figures further with the fact that many who are held on remand are often released or found not guilty at trial. In 2020, one in ten of all those remanded were acquitted at trial. One in four of those remanded in custody in 2020 were not sent to prison following their trial.

We wanted to put human faces to these damning statistics, to hear directly from the people being forced to suffer for the government's failures, so we asked people to write to us about their experiences. We received responses from people held in 19 different prisons all around England and Wales: from London to Liverpool, Lewes to Durham, Nottingham to Wrexham. The first-hand accounts we received of life on remand during the pandemic painted a harrowing picture.

Many of those who wrote to us described delays to their cases of many months.

'*My trial has been postponed several times, even before the pandemic, last October 2020 was suspended and set for October this year* [2020].' **Miriam***

'*My trial date [was] supposed to be August 2020 but due to [the] pandemic they moved to October then they moved to November then February 2021 and now waiting for 12 April [2021]. I hope this goes through.*' **Farhan***

People alleged that they were being held in custody awaiting trial without good reason, such as

July

1: The Trump Organization and its chief financial officer Allen Weisselberg are charged with a 'sweeping and audacious illegal payment system' of tax-related crimes spanning 15 years. Trump Organization paid employees' rent, utility bills, garage fees, school expenses and other living costs without declaring them.

2: Prosecutors in Northern Ireland drop murder charges against two former British Army soldiers for killings in Derry in 1972. One was Soldier F, the only member of the Parachute Regiment facing court for the deaths of 14 people during Bloody Sunday. The other killed teenager Daniel Hegarty.

3,500
The number of people who died during the 1969-1998 conflict in Northern Ireland. Most cases were not solved.

5: Ministers publish legislation allowing developers to pass on costs of fire safety to residents. This means thousands of leaseholders living in dangerous blocks are facing bills to repair fire safety defects that could run to £15bn.

6: The Israeli parliament votes down an extension to controversial legislation that bars Arab Israelis from extending residency or citizenship rights to Palestinian spouses. This is a blow to the country's new coalition government.

'Prison lockdown meant people were kept in their cells for more than 23 hours a day, sometimes for days at a time.'

for low-level offences, and there was a bias against foreign nationals and people experiencing homelessness.

'Bail is hard to achieve for a foreigner.' **Agnes***

'I haven't been able to apply for bail because I literally have no address or anywhere to go.' **Miriam***

Access to legal advice and speaking to a lawyer while on remand has also been severely impacted by the pandemic and the use of 'remote' video-link calls. Many people said the connections were often poor, meetings were short, and prison authorities' errors led to conferences being missed or cut even shorter. There were also concerns over confidentiality.

'My consultation is always rushed because my barrister has to try and squeeze in the most important things in limited time. And even if he's not finished the video call ends and getting another one booked can take ages because there's a long que due to limited facilities to facilitate the video calls.' **Keeley***

'Since lockdown, I have only received two or three video conferences and they have been totally inadequate, and I feel it's no substitution as there's delay and [we] end up talking over each other.' **Jake***

Those unlucky enough to have been remanded or imprisoned during the pandemic faced even more severe punishment than usual. Prison lockdown meant people were kept in their cells for more than 23 hours a day, sometimes for days at a time, with showers and exercise allowed intermittently – conditions that amount to solitary confinement, and which were branded 'inhumane' by one respondent. Even in the best circumstances, contact with friends, families and others was restricted to monthly video-calls, with many unable to speak to their loved ones at all. Many were denied access to healthcare, support and opportunities to learn.

'My kids have not seen me in person in over one year and I can't tell them when I'll be able to see them let alone hug them.' **Keeley***

While our responses were made up of people from the adult prison population, many children are also being held in similar conditions, as well as younger people in adult prisons. There are around 500 children under the age of 18 in youth detention, and more than three in ten are on remand. Almost a third of children in custody in 2019–20 were there for non-violent crimes. Many children, including some as young as 12, have been confined to their cells for all but 40 minutes a day.

The above conditions have impacted prisoners physically, mentally and emotionally, leading to rampant levels of depression, anxiety and other mental health issues, including self-harm and suicidal thoughts. Several people also made allegations of safeguarding failures by prison authorities.

'The impact has been exhausting (…) not knowing what is going on has affected my mental health immensely and is getting worse (…) I have even self-harmed, had no help from mental health, no counselling can be facilitated, and still have no clue as to when [my trial] will be…' **Stuart***

'Mental health is worse, been self-harming more and even told staff I wanted to kill myself and they don't do anything (…) staff don't care especially when it comes to self-harm and mental health.' **Nick***

Unsurprisingly, these conditions have taken their toll on people. Many respondents said they considered pleading guilty, or know people who have plead guilty to offences they did not commit in order to get out.

'I was totally innocent but due to the conditions, time locked up and not being able to get appropriate legal conferences I was willing to plead guilty to get out of there. I was well over my custody limit as well. (…) It is totally wrong and unjust.' **Alex***

'I feel remand is used as a tool to increase 'conviction' rate as most people get to the 'time served' part and change plea just to get out of this hellhole.' **Winston***

The full accounts are published in Fair Trials' report, *Locked up in lockdown – life on remand during the pandemic*, read the report here: *https://bit.ly/LockedUpIn Lockdown*

Griff Ferris

*Names have been changed to protect people's identities at their request and to avoid prejudicing ongoing cases.

6: A case begins in the High Court claiming that allowing pregnancy terminations up to birth if the foetus has Down's Syndrome is discriminatory and stigmatises disabled people. The challenge is to the Abortion Act 1967 which sets a 24-week limit unless there is 'substantial risk' of the child being 'seriously handicapped'.

6: The convictions are overturned of three innocent black men who were jailed nearly 50 years ago over a corrupt police officer's claim that they had tried to rob him. Courtney Harriot, Paul Green and Cleveland Davidson and three friends became known as the Stockwell Six.

'The Royal National Lifeboat Institution has become a taxi service for illegal immigration.'
Nigel Farage

6: A Grenfell mass compensation claim begins in the high court. Over 800 bereaved relatives and survivors and 102 firefighters have filed civil claims against defendants including Arconic, maker of the combustible cladding, Rydon, the main contractor and Kensington and Chelsea council.

8: Leading homeless charities attack the police and crime bill, warning it could criminalise large numbers of people for simply having no home and argue urgent changes are needed to the bill to avoid the risk of people being arrested and imprisoned for sleeping rough.

Continuity and change at the Institute

I have recently succeeded Carolyn Jones as Director of the Institute of Employment Rights (IER). It's a massive privilege to be heading up such a respected organisation. It's also slightly daunting to be following Carolyn, who has been in the role for an incredible 32 years, building the organisation with amazing energy and sound political judgement.

The IER was formed back in 1989, as a response to Thatcherite anti-union laws. The network it developed has become a forum for ideas and practical resources to challenge the industrial relations framework that Thatcherism established, and New Labour failed to challenge. It is, essentially, a think tank for the labour movement – and through the consistent work of people like Carolyn, John Hendy and Keith Ewing, it has become an invaluable hub for that intersection between academic research and practice.

As a young trade union rep, I can remember going along to the IER's famous 'employment law updates' and finding in those sessions (and the accompanying materials), a completely reliable source of information for the struggles my members were facing in the workplace. That reliability and accessibility is a feature of the IER's work over the three decades of its existence and the main argument for its continued presence in the movement.

Despite the incredible work that the IER does, there will be many people newer to the labour movement who will not be aware of it. So, one of the priorities for me will be to get out and meet younger trade unionists, labour lawyers and industrial relations academics to talk about our role and how we can work in tandem.

Picture: © Jess Hurd

Trade unionists, many of them young, on the climate justice march in Glasgow.

For three decades, the IER has put on seminars, conferences, fringe events, produced briefings, pamphlets, books, and online resources for trade unionists on the front line of industrial relations. The Institute, as it's known to its friends, works unequivocally for the trade union movement. It has also worked alongside lawyers, solicitors, and law firms with that same orientation, resulting in some brilliant collaborative, educative and legislative work.

IER
Institute of Employment Rights

That history is incredibly important, but everyone involved in the IER is fully aware of the need to constantly renew itself, and so it is again, in the strange and challenging environment we face in the wake of a prolonged economic crisis, austerity and pandemic.

Every study tells us that younger workers have weaker ties to trade unions and lower awareness of the benefits of organising together in a union. A more outward-facing IER, using the tools of social media and technology, can clearly play a bigger role in speaking to those workers and furnishing them with the information and resources to win battles in the workplace.

The rise of precarious work, the erosion of workplace rights, increasing casualisation, zero hours contracts, fire and rehire and the lack of a consistent union presence in the so-called gig economy are all urgent issues that need a response from the trade union movement as a whole – including those working in the legal profession, educators, and organisers.

The challenges of climate change and the transition of our economy to net zero are equally urgent issues. Apart from the issue of a just transition (which is crucial), there's a perception that climate jobs will naturally be worker friendly. But in the trade union movement, we know that not to be true. Terms, conditions, pay and rights will need to be fought for in this emerging sector.

So, one of my priorities will be to raise the profile of the Institute, not for the sake of it, but in order to employ the brilliant expertise we have in these new areas and demographics. The IER has done such valuable work for the three decades of its existence, and that has been down to the accumulated knowledge of its people. We aim over the next few years to expand that resource – bringing in a new generation of researchers and lawyers and tapping into the skills of the movement to help younger trade unionists find their voice.

Ben Sellers www.ier.org.uk

July

8: Stella Moris, the partner of Julian Assange, rejects US assurances that he would not be held under the strictest maximum-security conditions if extradited from the UK. She described them as a formula to keep him in prison for the rest of his life.

14: The Department of Work and Pensions agrees to change its controversial policy of cold-calling vulnerable and disabled people, trying to persuade them to accept lower benefit claims than they are entitled to. The DWP had resisted calls to change its practice but backed down the day before a judicial review at the High Court.

19
people died in police custody in 2020-21

'Once again the data on deaths in police custody repeats the same patterns, nothing changes. Successive governments are willing to accept these deaths.'
Deborah Coles, Inquest charity

22: Rank-and-file police officers vote overwhelmingly to support a vote of no confidence in the home secretary, Priti Patel – the first such move in more than a decade. The Police Federation of England and Wales said Patel and the government 'could not be trusted'.

The intention of 'intentionality' in homelessness legislation

The Housing Act 1996 stipulates how local authorities in England process applications for support from homeless households. The system is based on investigation. The local authority has the powers to consider the circumstances surrounding an applicant's homelessness and the support offered is based on the outcome of these inquiries.

Built into the investigation is the notion of 'intentionality'. If the assessment officer finds deliberate acts or omissions that caused a household to become homeless, their duties towards the household are greatly reduced. They no longer have to provide accommodation until the household is re-housed but offer temporary accommodation to allow 'reasonable opportunity' for re-housing. In many local authority areas, households considered intentionally homeless will be evicted from temporary accommodation after a matter of weeks, depending on what the authority deem to be a reasonable period to find accommodation. This is regardless of how vulnerable an individual may be.

There have been challenges to intentional homelessness that have resulted in much case law that prescribes the circumstances when households can be deemed intentionally homeless. The code of guidance also stipulates that if the act causing homelessness resulted from a 'temporary aberration' of mental capacities, the applicant may not be found intentional. Essentially, they must consider whether the person could be seen as acting rationally at the moment they became homeless.

The Scottish Government altered legislation around intentionality in November 2019.

Rather than it being mandatory for Scottish authorities to investigate intentionality, it is now at the assessing authority's discretion. Research by Crisis suggests that as a result the number of applications found to be intentional have fallen in the past year.

The Scottish Government also plans to tighten the conditions in which a household is found to be intentionally homeless. Rather than a deliberate act, legislation may be introduced limiting intentional homelessness to 'deliberate manipulation' of the Housing Act. They would only be considered intentional if it can be shown that they purposefully manipulated their situations in order to gain housing support from an authority.

Scottish homelessness legislation is diverging from the English system, lessening the likelihood that a household will be found intentionally homeless.

Picture: © Jess Hurd

In both England and Scotland, 'intentionality' remains within legislation.

Despite this, in both English and Scottish jurisdictions, the concept of 'intentionality' remains within legislation. Local authorities are empowered to investigate whether an individual or household can be blamed for their circumstances. They form a link between why a person became homeless and the support available to a household or person in need of shelter. Support can be limited if blame or fault can be attributed.

The inclusion of 'intentionality' into housing law is arguably ideologically driven. It speaks to how individuals are perceived in law and the responsibility the state wants to attribute to individuals. By enforcing the concept of intentionality, the state says that an individual must be held accountable for their circumstances. A very specific image of the individual is created, one that is in control of their situation, rational, and competent.

'The logic is clear. If you can be blamed for becoming homeless, you deserve less support.'

In terms of homelessness, the logic is clear. If you can be blamed for becoming homeless, you deserve less support. The law is >>>

22: Tommy Robinson loses a libel case brought against him by Syrian youngster Jamal Hijazi, who was filmed being attacked at school. Robinson claimed in a Facebook video that Jamal attacked English girls in his school and threatened to stab a boy. Damages of £100,000 were awarded. Robinson claims to be bankrupt.

25: A freedom of information request reveals that more than 50 people died in Home Office accommodation in the last five years. There has been a sharp increase in deaths in the last 18 months. Charities have called for more transparency and accountability.

160%

The rise in the number of women forced to tell the government they had become pregnant from a rape, in order to escape the two-child limit on benefits.

26: A UN human rights expert claims that 52 people are being held in England and Wales in conditions that may amount to torture. Close Supervision Centres hold 'dangerous' prisoners in small, highly supervised units and expose prisoners to exposed and indefinite periods of isolation.

29: Twenty percent of suicide and self harm retraining courses in English and Welsh prisons were never completed. An analysis of coroners' reports into all prison suicides over the past five years found that seven out of ten mentioned staff training as an issue.

>>> not built around providing for an individual's need but providing services only to those who are deserving. In 19th century discourse, this category would be classified as the 'deserving poor.'

By building a concept of intentionality into homelessness legislation, the capitalist system reinforces the notion that individuals are in control of their circumstances. The social conditions causing homelessness are relevant only in so far as the individual cannot be blamed for becoming homeless. The social conditions of poverty and housing precarity that actually cause homelessness are seen in the context of how the individual has behaved.

The current legislation individualises instances of homelessness and works to cut out the impact of social conditions from homelessness investigations. Individuals are seen as rational and blame can be attributed to them for becoming homeless. Legislation removes focus from the failings of the state to the individual to explain and mediate instances of homelessness.

The Housing Act 1996 needs to be reformed. England and Wales need to move towards the Scottish system where the concept of 'intentionality' in homelessness investigations is being constrained. Scottish legislators need to be bold. They should eradicate the concept of intentionality entirely. Legislation should only focus on the social conditions that have caused homelessness: people should be entitled to shelter as a right, not bound by whether the state considers your circumstances intentionally caused.

Joe Barson

A model statute for addressing climate change

Picture: © Jess Hurd

'We can no longer let the people in power decide what is politically possible. We can no longer let the people in power decide what hope is. Hope is not passive. Hope is not blah, blah, blah. Hope is telling the truth. Hope is taking action. And hope always comes from the people.'

With these words, spoken during a recent intervention at the Youth4Climate Summit hosted by the Italian government, Greta Thunberg (pictured above) summed up the feelings of many people in the face of the ever-worsening climate crisis. Thunberg's comments will certainly strike a chord with all who are frustrated by the disconnect between many governments' empty promises on climate action and the scale of what is needed to halt the unfolding crisis.

The extreme flooding, droughts and fires experienced this year in Germany, China, Iran, the United States and Russia, to name but a few, have underscored the vacuous nature of governments' pledges if unaccompanied by proper accountability and enforcement. By coinciding with the frighteningly stark warning recently issued by the Intergovernmental Panel on Climate Change, that breaches of the 2015 Paris climate agreement mean that certain aspects of climate breakdown are now 'irreversible', these recent extreme weather events are a snapshot of what awaits us on a daily basis unless action is taken at the scale that is required.

However, despite the UN Secretary General's description of the most recent IPCC report as a 'code red for humanity,' the climate action plans on reducing greenhouse gas emissions that were submitted to UN Climate Change by all 191 parties to the Paris Agreement prior to COP 26 indicate that, without further action, global greenhouse gas emissions will have risen by 16 per cent for the period 2010-2030.

Poor governmental responses to the climate crisis, compounded by events like the apology by the UK's president of the COP26 climate conference's for the outcome of the negotiations, make Thunberg's comment that 'hope always comes from the people' appear particularly poignant. Indeed, in response to the lethargy of governments, citizens all over the world are increasingly turning to the courts to require their governments to implement climate commitments. There has been a marked increase in such citizen climate litigation since the almost universal adoption by nations of the 2015 Paris Agreement.

For example, in the landmark case of *Urgenda Foundation v The Netherlands* in 2018, the Court of Appeal for the Hague upheld the lower court's ruling that the Dutch Government's inadequate emissions reduction targets breached the Constitution of the Netherlands and the duty of care in the Dutch Civil Code. The Court of Appeal went one step further than the lower court by concluding that Articles 2 and 8 of the European Court of Human Rights (the right to life and the right to private and family life)

August

2: Human rights campaigner and lawyer David Haigh is the first confirmed British victim of having his mobile phone infiltrated by the Pegasus spyware software in August 2020. Haigh has been helping the campaign for Latifa, the daughter of the ruler of Dubai, Sheikh Mohammed.

2: Lawyers bring a legal challenge against the Home Ofiice for fast-tracking the removal of some Vietnamese people from the UK, despite the fact that many are showing clear indicators of being trafficked. A charter flight with 21 people on board left Birmingham at the end of July.

10.9%

Proportion of anti-semitic posts Facebook has removed, despite introducing tougher guidelines. Twitter, Instagram, YouTube and TikTok have also failed to act.

3: It emerges that Health Minister Lord Bethell (who oversaw the awarding of Covid contracts) replaced his mobile phone before it could be searched for information relevant to £85m of deals made for anti-body tests with Abingdon Health that are subject to a legal challenge.

6: Growing numbers of women are taking their employers to court citing how they treat the menopause as proof of unfair dismissal and direct sex discrimination. There were five such employment tribunals in 2018, six in 2019 and 16 in 2020. Lack of consistency in decisions by judges is an issue.

were also engaged. In December 2019, the Appeal Court's reasoning was approved by the Supreme Court of the Netherlands.

As more and more individuals and groups around the world bring similar cases to drive climate change action, the International Bar Association launched the 'Model Statute for Proceedings Challenging Government Failure to Act on Climate Change' in February 2020. The principal aim of the Model Statute is to 'outline legal rights and remedies in respect of climate change, including injunctive relief to mitigate or prevent current or future threats, declaratory relief, and judicial review.' It is intended that the precedents and 23 specific Articles for reforms included in the Model Statute will be adopted in whole or in part by judges, rules of court or legislation across jurisdictions. The key strength of the Model Statute lies in its international and universal focus in attempting to lower legal, procedural, evidentiary and other hurdles for challenging climate inaction in the courts, notwithstanding the vastly different rules and procedures across jurisdictions.

Amongst the specific proposals included in the Model Statute and its accompanying report are that rules on who can access the courts ('standing') should facilitate individuals and groups in accessing courts to hold their governments accountable for climate inaction, courts should adopt appropriate legal frameworks to adjudicate the unique circumstances of the climate crisis and courts should be able to issue the necessary remedies when further action by the government is warranted.

Picture: © Jess Hurd

The Model Statute also includes several articles on costs implications for those seeking to challenge government inaction. As, particularly in states that are not party to the Aarhus Convention, crippling costs implications can exercise a chilling effect on prospective parties, the Model Statute proposes that courts exercise the tools available to them in addressing such concerns, for example by waiving or deferring court fees, cost-shifting or making protective or maximum costs orders.

'As more people around the world bring cases to drive climate change action the IBA launched the "Model Statute".'

The Model Statute is to be commended for its global focus in tackling common legal and procedural hurdles facing those who seek to hold their governments accountable for climate inaction. It contains many practical and implementable recommendations on issues such as standing, legal frameworks and costs implications that can guide judges in adjudicating on climate cases and be adopted by legislation or rules of court. However, for the Model Statute to move from theory to practice, many challenges will need to be overcome. For example, in the UK, where the recent Faulks Review highlighted increasing paranoia over 'judicial overreach' into perceived areas of policy, there will be an inevitable government backlash in granting courts more discretion in this area of litigation.

Furthermore, as our current legal frameworks remain firmly rooted in the protection of private property interests and capitalist concepts such as 'business efficacy', the implementation of the Model Statute will require nothing less than a complete paradigm shift in how we view law's relationship to the natural world. It certainly begs the question of how effective the law can be in solving a problem that is partly of its own creation.

Claire Nevin

12: Seven people were deported to Jamaica on a Home Office charter plane, at an estimated cost of £43,000 a person. The director of the charity Detention Action said: 'Horrifying suicide attempts and an unwell Windrush man being carried on to the plane... This is not how a civilised country conducts itself.'

3,000

The number of users on probation referred for help – out of 75,000 known to have drug problems. The chief inspector of probation noted that drug-related crime costs the public purse more than £9bn a year.

21: The Home Office did not carry out any safety checks on the hotel where a five-year-old Afghan boy fell to his death. Mohammed Munib Majeedi and his family were placed in the hotel by the Home Office as part of the scheme to relocate Afghans who had helped the British army or embassy in Afghanistan.

26: An official report by the Independent Office for Police Conduct finds that police officers deployed Taser guns too often, with black people more likely to face prolonged use. Twenty-nine per cent of white people were subjected to continuous discharges of more than five seconds whereas the figure was 60 per cent for black people.

Universal discredit: reverting to type

On 6th October 2021 the Government followed through on its £20 weekly slash to all Universal Credit claims. The cut is equivalent to just over 25 per cent of many single claimants' personal income.

The Social Security (Coronavirus) (Further Measures) Regulations 2020 which modified UC standard allowances by £86.67 per month was time-limited to a year upon commencement, being then extended another six months in April 2021.

Private renters use this standard allowance to top up their housing costs, which are capped by the insultingly arbitrary 'local housing allowance'. In theory, LHA has been calculated to meet the lowest 30 per cent of market rents in a given locality. In practice, the amount renters can claim is further hamstrung by limiting annual increases to the Consumer Price Index rate of inflation, therefore rising by the proportional change in the cost of a tin of beans as opposed to the scale of rent hikes.

So the majority of private renters (who aren't sitting on cash reserves) will now be driven even harder toward the unenviable prospect of rent arrears or destitution. Meanwhile, eviction moratoriums have already ended in each of the UK's jurisdictions.

Along with the closure of the furlough and 'Self Employment Income Support' schemes on 1st October and other welfare benefit rule 'easements' coming to pass, the short-lived parliamentary consensus to attempt to protect the hundreds of thousands from some of the darkest economic impacts of Covid is now well and truly dead.

In fact, the 25 per cent cut pales in comparison with some of the other barbarianisms that have either been let back off the chain or that were clawing away all this time. Take the claimants who never had the 25 per cent increase to begin with: largely those who are long-term unable to work due to disability and their carers. Since the start of restrictions, disabled claimants of 'legacy' benefits like Employment and Support Allowance are about £1,500 worse off than UC counterparts, and carers are worse off by over £2,000.

Disabled people who claimed UC at any time since the start of 2020 have often missed out altogether on additional amounts for being 'not fit for work' worth £341 every month. This was never an overt object of public policy; after face to face 'work capability assessments' were paused, DWP appear to have taken the law into its own hands by ensuring very few claimants were assessed by paper or telephone either. Lest an opportunity to prove itself brutally incompetent passes DWP by!

> 'Coffey's statement was clear: it is up to claimants themselves to keep their heads above increasingly troubled water.'

Individually underpaid an eye-watering £6,000 (and counting), these claimants may also be missing out on 'work allowances' that limit the extent of deductions that can be made for household earnings. This very political scandal is equivalent to (at least) several hundred million pounds that is as little spoken about as it is understood.

Add to all of this that on 31st July, the Secretary of State for Work and Pensions regained her authority to deem self-employed workers to be earning the minimum wage (£8.91 per hour) for 35 hours a week when in fact they aren't. If DWP believes your line of work is no longer affected by coronavirus, that's a heavy hit of £1,351.35 every month from your UC payments; potentially ending tens of thousands of claims with the press of a button.

Despite superficial media interest, the biggest political controversy leading up to the £86.67 cut to standard allowances was when Dr Thérèse Coffey, Secretary of State for Work and Pensions, gaffed that it would only be about another two hours of work for someone earning around minimum wage to make up the loss.

Mathematically speaking she was wrong. Most UC 'customers' see 63 per cent of their earnings clawed back, as her critics quickly pointed out, so the lowest earners need more like a full additional working day every month to make up for the loss. The more pernicious logical truth to Coffey's statement was uncontested: that it is up to claimants themselves to keep their heads above increasingly troubled water.

Yet 40 per cent of UC claimants simply don't have a boss to beg for an extra day's work from each month – they're unemployed. Plus, over 1.3 million people on UC either have an acknowledged disability or care for someone who

Priti Vacant

September

1: Police in London weilded batons and threw punches against Extinction Rebellion protestors as they tried to gain control of an open-top bus blocking London Bridge. It marks a change in the Met's approach to the group.

3: The Attorney General's office is asked to review whether an unduly lenient sentence was given to a neo-Nazi who was given a suspended prison term and ordered to read classic literature such as Pride and Prejudice. Ben John was convicted of a terror offence after downloading almost 70,000 white supremasist documents and bomb-making instructions.

7: Election spending by trade unions and other groups could be potentially cut by millions of pounds under the government's elections bill. It would mean that if Labour was campaigning jointly with unions, any expenditure would have to be declared by all groups, reducing the overall amount available. The bill also plans on mandatory election ID even though electoral fraud is minimal.

8: Dame Cressida Dick's contract to lead the Metropolitan Police is extended for another two years.

14: Six nations listed by the Foreign Office as 'human right priority countries' are invited by the government to send delegations to Europe's biggest arms fair. They include Saudia Arabia, Bahrain , Bangladesh, Colombia, Eqypt and Iraq. These countries all face issues on internal repression.

does, relieving them (in all other circumstances) of the expectation to find waged work. Add to this another 1.2 million who either juggle the same needs around part-time work, or who already work over 35 hours per week anyway.

Sadly, none of this comes as a surprise. UC simply isn't social security in the conventional sense of the term. We should at least give the Tories credit where credit is due: they always said they would overhaul the benefits system, and in myriad ways they have. In UC and its various pock-marked iterations over the last eight years, successive Tory and Tory-led governments have completed a cultural shift in how benefits are 'delivered'.

In the Tory imagination, UC is the ethical lubricant of a fibre-optic-broadband labour exchange. Its function is to bring together the loose ends of the gig economy's worst deficits by speed dating un(der)employed workers with a rotating offer of insecure work or technocratic punishment. It's an up-and-running system of workfare, and the £20 cut is not an aberration but a reversion to type. If it helps to depress wages in an era of unprecedented labour shortages, then they'll have more of it and more often.

Thus, fixing UC won't fix the problem. To be sure, there are a few tweaks that could be made to take some of the sting away for many people, but we should go further. The principle of social security has been all but defeated in this society that turns toward barbarism over and over again.

But neither is it enough to simply call for the abolition of UC. Antipolitics might win votes but it won't change society. To radically address the problems of social security requires looking radically at the causes of its need: the wage system in all of its incoherence, private rents in all their irrationality, and the foul attitudes that society takes toward disabled people and carers.

Greg Brown

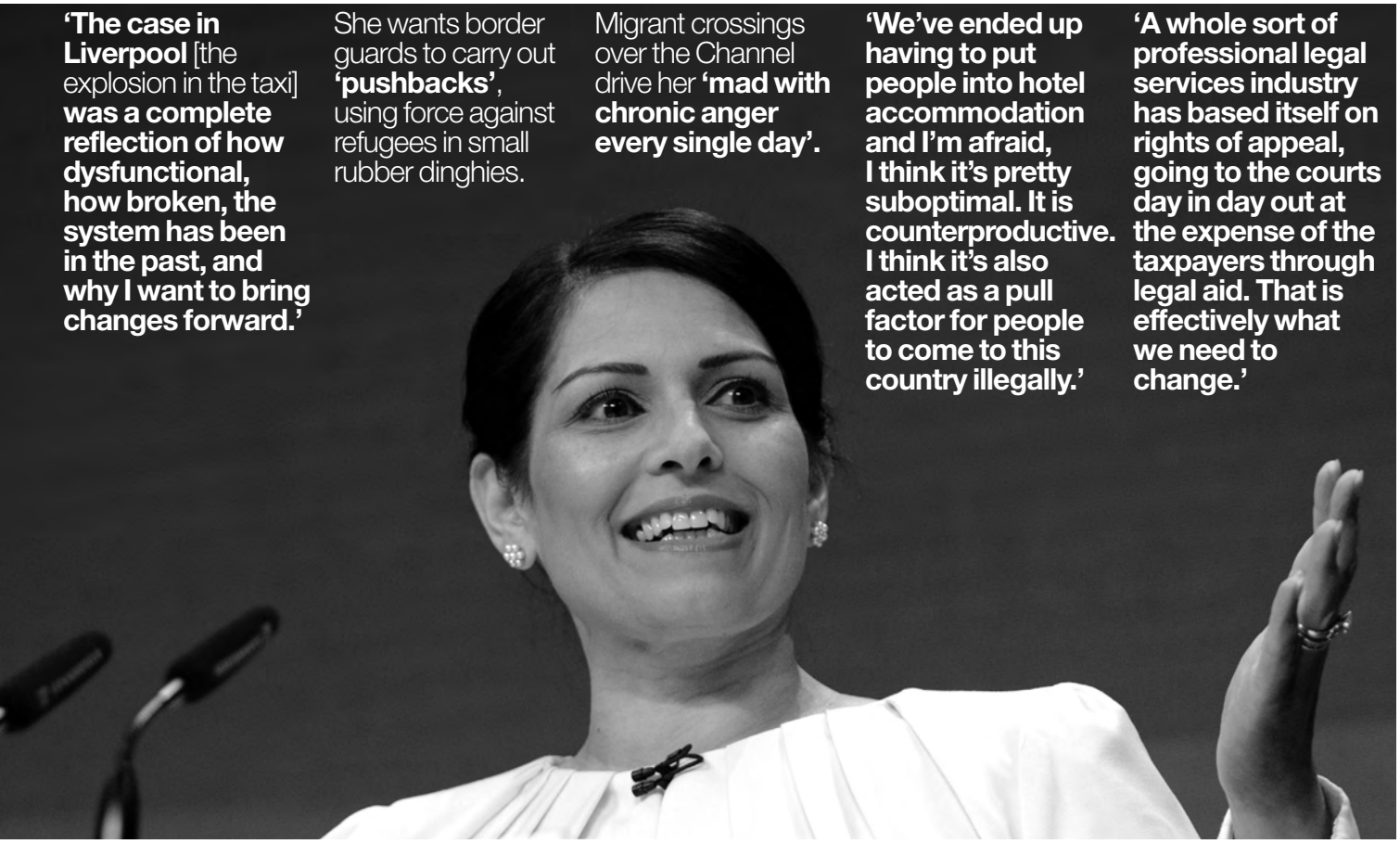
'The case in Liverpool [the explosion in the taxi] **was a complete reflection of how dysfunctional, how broken, the system has been in the past, and why I want to bring changes forward.'**

She wants border guards to carry out **'pushbacks'**, using force against refugees in small rubber dinghies.

Migrant crossings over the Channel drive her **'mad with chronic anger every single day'.**

'We've ended up having to put people into hotel accommodation and I'm afraid, I think it's pretty suboptimal. It is counterproductive. I think it's also acted as a pull factor for people to come to this country illegally.'

'A whole sort of professional legal services industry has based itself on rights of appeal, going to the courts day in day out at the expense of the taxpayers through legal aid. That is effectively what we need to change.'



Picture: © Jess Hurd

16: Shamina Begum, in an interview, states she wants to face British courts to refute claims that she was engaged in terrorist acts while she was living under Islamic State in Syria. Begum was 15-years-old when she left Britain and is in a legal battle after her British citizenship was revoked in 2019 by then Home Secretary, Sajid Javid.

16: In a report on drug treatment for people on probation, HMIP said at least 75,000 of the 156,000 offenders on probation used drugs problematically.

16: The high court rules that the Environmental Agency has to do more to protect a five-year-old boy from landfill fumes that doctors say are shortening his life expectancy. The landmark ruling stated that the agency was not complying with its legal duty to protect the life of Matthew Richards whose respiratory health problems were being worsened by fumes from a landfill site near his home in Silverdale, near Newcastle-under-Lyme. The High Court found that to protect Matthew's human rights, levels of dangerous emissions from Walley's quarry had to be reduced in a matter of weeks.

18: A controversial judgment that children under the age of 16 considering gender reassignment are unlikely to be mature enough to give informed consent to be prescribed puberty blocking drugs is overturned by the Court of Appeal.

UK addresses the legacy of Northern Ireland's past and makes Pinochet blush

Northern Ireland's hard won peace is a fragile one and since the 1998 Good Friday/Belfast Agreement the piecemeal approach to dealing with the unresolved legacy of our past has failed to deliver truth and justice for victims and survivors of the 'Troubles', hindering reconciliation.

Over the course of more than twenty years, successive UK governments have failed to put in place a comprehensive set of mechanisms to deal with the legacy of the conflict in Northern Ireland. Worse, they have failed to comply with judgments of the European Court of Human Rights, handed down in 2001-2003, ordering effective investigations into a number of deaths.

The Stormont House Agreement 2014, reached between the UK and Irish Governments and NI political parties, offered a route to finally deliver on the promises made to victims and to comply with binding international legal obligations. It proposed the establishment of four bodies to deal with the legacy of the conflict, namely: the Historical Investigations Unit, an Independent Commission on Information Retrieval, an Oral History Archive and an Implementation and Reconciliation Group.

The UK government has, however, unilaterally abandoned its commitments to implement this Agreement. On 14th July 2021, UK Command Paper 498 "Addressing the Legacy of Northern Ireland's Past" set out a proposal for a sweeping, unconditional amnesty for all 'Troubles-related incidents' in the form of a 'statute of limitations'. The Command Paper proposes to legislate an end to all meaningful investigations and legal proceedings, including all prosecutions, police investigations, Police Ombudsman investigations into legacy deaths, coronial inquests and the ability of victims and survivors to take civil proceedings. It proposes the establishment of an 'Information Recovery Body' to conduct desktop reviews into some legacy cases, although there is strong doubt that this could be compliant with the investigative obligation protected by the right to life under Article 2 ECHR.

'The biggest obstacle is the UK's policy of delay, obfuscation and a national security veto on the release of information.'

The Committee on the Administration of Justice, in conjunction with Queen's University Belfast prepared a detailed response to the Command Paper and notes that its use of the term 'statute of limitations' is a misnomer. What is being proposed is irrefutably a broad, unconditional amnesty. Based on comparative research, we argue that it is clear that the proposed amnesty is even more expansive than that introduced under the dictatorship of General Augusto Pinochet given its breadth and unconditionality.

There are also key elements of the Command Paper that are deeply misleading. The official narrative of the proposals seeks to portray all existing mechanisms as focusing on prosecutions and convictions and that retaining a route to justice itself is responsible for stifling information recovery. In fact, the biggest obstacle is the UK Government's policy of delay, obfuscation and a national security veto on the release of information, and the proposed 'Information Recovery Body' would be the least effective of all mechanisms in actually providing information to the families of those killed.

The Command Paper also makes misleading comparisons with the South African Truth and Reconciliation Commission, despite the proposals bearing no resemblance to this mechanism.

Such is the concern about the human rights compliance of the proposals, that, on 10th August 2021, Fabián Salvioli, UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and Morris Tidball-Binz, Special Rapporteur on extrajudicial, summary or arbitrary executions, issued a joint statement expressing serious concern about the UK

At the end of October, after 27 refugees were

October

13: A report from several immigration lawyers concludes that Priti Patel's Borders Bill breaches international and current domestic law in at least 10 different ways. The planned two-tier asylum system will mean those arriving by 'irregular means' such as boats will be granted fewer rights.

16: The Labour Party is reported to be spending significantly more money on fighting legal battles than on political campaigning. Sources say last year campaigning was Labour's fourth-highest spend, behind costs linked to legal cases.

19: Five undercover police officers who infiltrated political groups in the 1970s and 1980s give evidence in secret to a public inquiry leading to accusations that police are being allowed to cover up any wrongdoing.

21: Plain clothes police officers in London will video-call a uniformed colleague to verify their identity when stopping a lone woman. Cressida Dick, the Met police commissioner, said the change would put the responsibility on the officer to prove they were acting properly.

22: A recent analysis shows it will take nearly two decades for the government to reach its own target for turning around the collapse in rape prosections in England and Wales. But quarterly CPS data shows that in 2015-16 the CPS charged 3,910 suspects with rape but in the year ending 2021 just 1,972 charges were made.

Pictures: © Jess Hurd

drowned trying to cross the Channel to claim asylum, Sisters Uncut organised a protest outside the Home Office.

Government's plan 'which would effectively institute a de-facto amnesty and blanket impunity for the grave human rights violations committed during that period.'

The UN experts expressed their 'grave concern that the plan outlined in July's statement forecloses the pursuit of justice and accountability for the serious human rights violations committed during the Troubles and thwarts victims' rights to truth and to an effective remedy for the harm suffered, placing the United Kingdom in flagrant violation of its international obligations'.

These concerns are shared by the Council of Europe Commissioner for Human Rights, Dunja Mijatović, who, in September 2021, published correspondence to the UK in which she had warned that the proposals under the Command Paper 'would undermine human rights protections and would cut off avenues to justice for victims and their families'. She further stated that 'if adopted, the plan would lead to impunity and cannot be the foundation on which transitional justice is built.'

The proposals have also been met with widespread opposition in Northern Ireland including from victims and survivors, all political parties and the Law Society for Northern Ireland.

There have been conflicting and contradictory messages as to the objective behind and status of the Command Paper. At times, the UK government has argued its proposals are designed to further 'information recovery' and on other occasions it has openly linked the proposals to commitments to ending proceedings against military veterans.

These proposals represent a threat to the rule of law and should be widely rejected by all in our society. They will affect all victims of the Northern Ireland conflict – whether they live in Belfast or Birmingham – so it is in all our interests to stay vigilant as legislation is introduced and to work to ensure the interests of justice prevail.

Gemma McKeown, Committee on the Administration of Justice.
A fully referenced version of this article is available on request.

22: The backlog of criminal cases in England and Wales is likely to be a pervasive issue for years, severely affecting victims and defendents, according to the National Audit Office.

60,692
The cases received but not yet completed in England and Wales in the 15 months to the end of June.

27: A self-described anti-Zionist who was sacked from his job after being filmed arguing with a protester at a rally aginst anti-semitism in the Labour Party has won his job back and about £70,000 in damages after a judge ruled he was unfairly dismissed.

27: Three former police chiefs state that errors made in the search for two missing sisters, Bibba Henry and Nicole Smallman, were the result of bias. The sisters were murdered but the police failed to hold an immediate search leaving friends and family left to search for themselves. Their mother, Mina Smallman, dismissed as 'hollow' an apology for the blunders.

29: Hundreds of asylum seekers are being housed by the Home Office in a former courthouse-turned-hostel that promised nights in an 'authentic prison cell' to backpackers. Some of the asylum seekers have fled countries where they were imprisoned.

30: Police in England and Wales are considering using drone-mounted cameras that could film high-quality live footage from 1,500ft (460m) away. Concerns are raised by civil liberties campaigners.

Activist lawyers working across the continent and the globe

Haldane is a founder member of both the International Association of Democratic Lawyers (IADL), in 1946, and of the European Lawyers for Democracy and Human Rights (ELDH), in 1993. Bill Bowring represents ELDH on the IADL, and is Co-President of ELDH, which has members in 21 European countries.

The ELDH Executive Committee has continued meeting monthly online, with the latest meeting taking place on Sunday 5th December, before the IADL Council. Representatives of member associations in about seven European countries attend each meeting. The co-presidents of ELDH, Barbara Spinelli (Italy) and Bill Bowring, and co-secretaries-General, Ceren Uysal (Turkey) and Thomas Schmidt (Germany) are working well together. There has recently been an amendment of the ELDH Constitution to provide for female and male co-president and co-secretary-general.

The IADL Council met online on two consecutive weekends. 27th-28th November and 4th-5th December, 1300 to 1600 UK time, across all time-zones, with 35 representatives of as many countries, in all continents except Australasia. The current President, Jeanne Mirer, a US trade union lawyer, and Secretary General Jan Fermon, a Belgian advocate, are being replaced by Edre Olalia (Philippines) and Micol Savia (Italy). Bill Bowring is a member of the Taskforce to create an anti-imperialist Academy of International Law, to be named after Monique and Roland Weyl – a lifelong anti-imperialist lawyer who died recently aged 102. See *https://iadllaw.org/2021/04/iadl-members-remember-roland-weyl/*.

Yury Varlamov in Moscow, in a Teachers Union t-shirt.

A Fact-Finding Mission to Turkey with about 30 lawyers from Belgium, France, Germany, Italy, the Netherlands, Norway, Spain and Switzerland, representing international organisations, bar associations and the Council of Bars and Law societies of Europe (CCBE), took place from 15th to 20th September. It included trial observations (Selcuk Kozagaçli , Barkin Timtik, Aytac Ünsal, and Oya Aslan), visits of prisoners (Selcuk, Barkin, Oya, and other ÇHD colleagues in Silivri, Edirne and Kandira) and a press conference on the last day. ELDH was represented by Annina Mullis (DJS, Switzerland) and Thomas Schmidt. See: *https://eldh.eu/en/2021/09/an-entire-profession-on-trial/*

> '400 people attended the Labour rights and the digital transition conference in October in Brussels, plus 200 more online.'

The meeting on 24th October 2021 heard a report from Yury Varlamov of our Russian member the Centre for Social and Economic Rights / Lawyers for Workers Rights, which works closely with the Russian Confederation of Independent Trade Unions, KTR. Yury, a leading trade union and human rights lawyer, has recently been elected Chair of the Russian Teachers Union.

The European Labour Law conference, "Labour rights and the digital transition" took place on 28th-29th October 2021, in Brussels and online. Haldane Vice-President John Hendy QC was a lead speaker, and Declan Owens participated. Thomas Schmidt represented ELDH. About 50 participants were present in Brussels in the International Trade Union building. Out of 600 who had registered, 200 participated online.

The ELDH Migration Sub-Committee is active, in particular Annina Mullis of the Swiss DJS and Wendy Pettifer of Haldane . Annina presented a report to the last ELDH Executive.

The agenda for the meeting on Sunday 5th December 2021 included the following:

- Next Day of the Endangered Lawyer, 24th January 2022 (Colombia).
- Next International Fair Trial Day, 14th June 2022. On 1st December 2021 the Steering Group followed the suggestion of ELDH and AED to choose Spain as the focus country for 2022. ELDH's Urko Aiartza (Basque Country), and AED's Robert Sabata (Catalonia) gave two convincing interventions. ELDH and AED have agreed to draft the final report, with the help of Haldane and ELDH Exec Member Louis Lemkow Zetterling.
- Work on the Statement drafted

November

5: A Pentagon investigation finds that a drone strike in Kabul which killed 10 Afghan civilians was an 'honest mistake' and recommends that no legal or disciplinary action be taken. Critics say the report contributed to a culture of impunity, and failed to address systemic problems in the US conduct of drone welfare, making furture civilian casualties inevitable.

5: Rape accounted for 37 per cent of all sexual offences recorded by the police. The number of rape offences in the year ending in June 2021 was 61,158 offences, the highest ever recorded annual figure.

6: Jamaica's top diplomat in the UK states deep concern about Home Office plans to put people who came to this country as children on a deportation flight. Movement for Justice found that of the 17 Jamaicans detained in preparation for a flight, 10 have lived in this country since childhood.

£930k

The amount the former Attorney General Geoffrey Cox MP (part-time) earned from his second job as a 'lawyer' in 2021alone (up to November)

9: A report by Front Line Defenders, a Dublin-based human rights group, states the mobile phones of six Palestinian human rights defenders were previously hacked by spyware made by the NSO Group in Israel.

by Wendy Pettifer on the proposal to build an EU wall, and on the situation with Belarus. The final version was presented to the Haldane Exec on 5th December 2021.

- ELDH is working more closely with AED and a joint meeting is planned, in-person if possible in Naples and a joint meeting with AED, on 18th-19th February 2022.
- Turkey:

– ÇHD trials, next hearing in the trial against Selçuk Kozağaçlı and Barkin Timtik will be on 5th, 6th and 7th January 2022 in Silivri. There is a possible observation mission. Haldane members should let Bill Bowring know if you are interested.

– Meeting with the left-wing opposition party, the Peoples' Democratic Party (HDP), concerning the pending case before the Turkish Constitutional Court. A further online meeting was held on 18th November 2021. In the meantime the Prosecutor General at the Turkish Court presented on 28th November his opinion against the preliminary defence of the HDP in the banning proceedings against it. He remains committed to his request to have the HDP, which is the third-largest faction in parliament, banned. ELDH will draft a statement.

– Project of the new campaign for the delisting of PKK from the EU and national terrorist lists. VDJ will support the campaign in Germany. There will be an ELDH statement for the delisting by the EU.

All comrades are welcome at the next online meeting of the ELDH Executive, 9th January 2022, 9 am to 12 noon.

- To contact our International Secretary **Bill Bowring** email: *international@haldane.org*

Building solidarity with the Sudanese Revolution

After an approach by members of the Sudanese Diaspora Roundtable UK, the Haldane Society hosted a discussion with Sudanese activists and revolutionaries on 2nd December, ahead of their Emergency Conference on the 6th.

Speakers gave context to the current uprising in Sudan, which began with the removal of President Omar al-Bashir in April 2019, and recently re-intensified with the removal of Prime Minister Hamdok and other politicians by the military in October this year. Dr. Sarra Khalifa highlighted the work of unionised doctors in Sudan in recording deaths and injuries among revolutionaries – since October, 43 have been killed, and hundreds seriously wounded. There is an ongoing doctors' strike in response to the violence, which has included tear gas being fired into intensive care units of hospitals, and injured protestors being arrested from inside hospitals. All the speakers emphasised the bravery, resilience and strength of determination of the protestors inside Sudan, and the revolutionary core of their struggle for democracy, justice and freedom against the successive authoritarian regimes. Indeed, as indicated by the contributions, the aim is not to merely tinker at the edges of the regime by removing one leader – it is a struggle to defeat a system blighted by injustice, and replace it with one befitting the Sudanese people.

Various strategies for resistance and collaboration by supporters based in Ireland and the UK were proposed. Abobaker Adam, a lawyer and member of the Sudanese Diaspora Roundtable, called for an international investigation into human rights violations since the revolutionary uprising began, and for the immediate and unconditional release of all political prisoners in Sudanese state prisons. Dr Muiz Hajjaz of the Sudanese Revolution Support Committee Ireland suggested taking legal action against corporations profiting from the dictatorial regime, including the Bolton-based Cellsecurity Limited, which equipped "The Fridge", a notorious high-security prison used to detain political opponents of the regime. He mentioned previous successful legal precedents related to companies profiteering from the Sudanese regime, against BNP Paribas in 2014, 2020 and 2021, and against the Lundin oil company. Dr Moataz Khalifa, also of the Sudanese Revolution Support Committee Ireland, mentioned the legal action by Doughty Street Chambers in response to the mobile and cellular shutdown in Sudan after the military coup.

'All the speakers emphasised the bravery, resilience, strength and determination of the protestors in Sudan.'

Such actions demonstrate a pertinent need to actively nourish relationships between the vibrant movements on the streets of Sudan and legal sector workers wherever possible.

Whilst national and international legal frameworks have clear limitations in achieving any semblance of justice, navigating the political levers of power in the UK and Ireland has become more critical. From increasing pressure on politicians, including local MPs and TDs, and building upon the ties of mutual solidarity with trade unions to generating greater, more comprehensive media coverage internationally – the conversation prompted serious discussions as to the potential actions which could be taken. A further contribution called to tackle the narrative within the UK and Ireland that the military coup was legitimate; in fact, as one participant rightly pointed out, this narrative only serves to underplay the neoliberalism inherent in the policies of the regimes and ignore the demands of those taking to the streets.

We extend our solidarity to the Sudanese people in their struggle for freedom, justice and equality - and shall continue working with the contributors to this intervention.

Ruby Breward

19: Referrals to the counter-terrorism scheme Prevent relating to far-right extremism exceed those relating to Islamist radicalisation for the first time. The total number of referrals to the government scheme was down by 22 per cent on the previous twelve months, which the Home Office claims is due to school and university closures during the pandemic.

19: The number of stop and searches carried out by police has risen by 24 per cent, to almost 700,000 in a single year, with officers using the tactic on the equivalent of one in five male minority ethnic teenagers.

24: Just 5 per cent of Windrush victims have received compenstion four years after the scandal emerged, according to a damning report by cross-party MPs which called for the scheme to be taken out of Home Office control.

24: A fourth member of the Stockwell Six – Texo Johnson, now 67 – has his conviction quashed by the Court of Appeal.

25: Russia may dissolve Memorial, the country's premier human rights group, in a historic attack on civil society and a symbolic reversal of the freedoms won by dissidents at the fall of the Soviet Union.

Covid and the dismal failure of this Government

● The People's Covid Inquiry was called by campaign organisation Keep Our NHS Public. Download the report at www.peoplescovidinquiry.com/

Haldane President **Michael Mansfield QC** kicked off the Haldane's *Inquiry into Inquiries* project with his involvement in a damning report following the People's Covid Inquiry. As he explains here in detail, the phenomenon of the 'pandemic' is hardly novel.

There is a long history of the planet being plagued and anyone in government responsible for health and safety must have been aware of the risk of a pandemic recurrence. This responsibility is well-recognised by the tenets of international and domestic law.

The Law

Internationally, the precautionary health and safety responsibility is embraced by a number of different instruments – the Universal Declaration on Human Rights (1948 Article 25); the Charter of the UN (Article 1 1945); the Constitutional provisions of the World Health Organisation (WHO) and the World Health Assembly (1946/1948 – creatures of the UN and engaging over 190 states), both committed to countering cross border health threats and giving rise to the International Health Regulations (IHR 2005). Of especial interest is the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR). Articles 12 (1) and (2) read: 'The States Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest standard of physical and mental health. The steps to be taken by the States Parties to the present Covenant to achieve the full realisation of this right SHALL include those necessary for ... (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases.' The United Kingdom ratified this treaty in 1976.

'The National Health Service Act 2006 s2A imposes a duty to protect public health from diseases.'

Domestic law reflects these obligations via the Human Rights Act 1996 (HRA) s6, by which the government must act in a manner compatible with the European Convention Articles (ECHR), for example Art 2, the Right to Life. Even more specific is the National Health Service Act 2006 s2A which imposes a duty to protect public health from diseases and other dangers to public health, and indicates appropriate steps which may be taken. Public Health England (PHE) was the executive arm of the Department of Health and Social Care (DHSC) dealing with this along with the Minister who bore ultimate responsibility, Secretary of State for Health, Matt Hancock.

A tragedy foretold?

In 2006, the Government Office for Science predicted a global pandemic within the next 30 years due to a virus mutating from a wild animal to humans (zoonotic disease). Ten years later, in 2016, there were two exercises, the full details of which have not been made public until recently – Cygnus and Alice. The details of Cygnus were eventually leaked after threats of legal action. The Health Minister at the time in the House of Lords, Lord Bethell, in June 2020 asserted that Cygnus-style simulations should remain secret 'so that the unthinkable can be thought'. More machinations from a government which had lost the trust and confidence of the people. They did not want the public to know that three years earlier the Cygnus report came to this conclusion: 'The UK's preparedness and response in terms of plans, policies and capability, is currently not sufficient to cope with the extreme demands of a severe pandemic that will have a nationwide impact across all sectors.'

What the Health Secretary Mr Hancock failed to reveal was that on top of Cygnus, in the same year there had been a number of exercises modelling different scenarios. Ten in all: some were for Ebola, some for flu – but one was for coronavirus, deriving its basis from a MERS outbreak caused by this virus. This too was kept secret. PHE and the Department of Health and Social Care were both centrally involved. The Government should, therefore, have been well prepared for the eventuality that presented itself at the end of 2019.

'Hancock failed to reveal that on top of Cygnus there had been a number of different scenarios.'

The NHS and social care infrastructure should not have been neglected and run down; effective in-date Personal Protective Equipment should have been readily stored and accessible; track and trace provision should have been anticipated as vital to basic public health measures; extra NHS hospital space carefully planned; an adequate NHS trained staffing complement at the ready; quarantine conditions and support sorted; strict border controls and isolation facilities programmed in advance. None of this is hindsight, as the People's Covid Inquiry report makes clear. >>>

Covid and the dismal failure of this Government

>>> Indeed, this People's Covid Inquiry report is unequivocal – dismal failure in the face of manifestly obvious risks. Even if distracted by Brexit – or Shakespeare – the Government went on to miss, overlook, or ignore the more immediate warning signs, which, if acknowledged, could have made a real difference to outcomes. On 31st December 2019 China alerted the WHO about a cluster of what was thought to be pneumonia cases in Wuhan. Of itself this was not perhaps overly concerning.

However, events escalated in a way that was not entirely unexpected – especially given the exercises undertaken. On 10th January 2020 the WHO issued a technical guidance package on how to detect, test and manage a potential respiratory pathogen (SARS and MERS). On 12th January China shared the genetic sequence for SARS-CoV-2. On the 23rd January Wuhan and other cities were in lockdown. By 30th January the WHO declared a global emergency and the following day, 31st January, the first two cases were confirmed in the United Kingdom.

Yet it is not until the end of March that Mr Johnson attempts to get his act together. The Government was caught seriously on the back foot and remained that way for the rest of 2020, as detailed in the evidence. There has been no accountability in any form, and it cannot be offset by the vaccine distributed by the NHS throughout 2021. There was no consistent, comprehensive and coordinated plan of public health strategy.

Tory indifference and incompetence

What leapt off the press conference page was the dilatory initial response; the absence of any effective track and trace system; the sheer waste of taxpayers' money ploughed into the pockets of private cronies; the contradictory messaging; the abject failure to provide PPE; the albatross of Nightingale hospitals; the lack of trained staff; the failure to utilise NHS primary care facilities; the misrepresentations about care home ringed protection; the parlous state of the NHS in the first place. Above all is the utter distrust of the public and the disrespect for the frontline workers, who, once the claps and saucepan fanfares had abated, were offered a one per cent, below-inflation, pay rise for their life-endangered troubles.

The UK remains near the top of the death and infection rate table. Mr Johnson says (15th November 2021) he cannot rule out more of the same on-the-hoof policy for winter 2021. Yet again he was advised months ago to implement a controlled raft of well-recognised public health suppression measures that accommodate the ongoing threat without resorting to the spectacle of see-saw lockdowns and disruption.

This Inquiry performed a much-needed and urgent public service when the UK was hit by a catastrophic pandemic coincident with an unprecedented period of democratic deficiency. It afforded an opportunity for the beleaguered citizen to be heard; for the victims to be addressed; for the frontline workers to be recognised; and for independent experts to be respected. When it mattered most and when lives could have been saved, the various postures adopted by government could not sustain scrutiny. This was especially so when initially the Government thought the best thing would be to ignore the virus because overreaction could do more harm than good.

> **'It was plain to Keep Our NHS Public that the Government words were bloated hot air, hoping to delay and obfuscate.'**

The Prime Minister initially rejected the idea of an independent public judicial inquiry into the COVID-19 pandemic. Pressed by the bereaved and others, he eventually conceded in the summer of 2020 that there would be one – but not until later. Months went by and nothing more was said until earlier this year when the bereaved repeated their request. Again rebuffed, the time was not right, and it would interfere with government work.

Once a bevy of 'notables' lent their weight to the glaring and urgent need, Mr Johnson relented and announced that there would be one 'launched' in the spring of 2022. More silence thereafter. Despite continued requests from the People's Covid Inquiry panel, at the time of writing there was no definition of 'launch', no date, no judge, no terms of reference, no infrastructure.

It was plain to Keep Our NHS Public (KONP), the organisers of the People's Covid Inquiry, that Government words were bloated hot air, hoping to delay and obfuscate. Within this narrative lies a theme of behaviour amounting to gross negligence by the Government, whether examined singularly or collectively. There were lives lost and lives devastated, which was foreseeable and preventable.

From lack of preparation and coherent policy, unconscionable delay, through to preferred and wasteful procurement, to ministers themselves breaking the rules, the misconduct is earth-shattering. The public deserves the truth, recognition, and admissions. For behaviour to be categorised in

criminal law as misconduct in public office, it must be serious enough to amount to an abuse of the public's trust in the office holder and 'must amount to an affront to the standing of the public office held. The threshold is a high one requiring conduct so far below acceptable standards as to amount to an abuse of the public's trust in the office holder.' (*A-G Ref No3 2003 (Attorney General)*) The test for a jury has been said to be whether the conduct is worthy of condemnation and punishment: 'Does it harm the public interest?' (LCJ in Chapman 2015).

Incompetence, indifference or democide?

The present pandemic management policy in Westminster is indifferent to the loss of life, the long-term complications of COVID-19 in survivors, and the impact on NHS staff and other frontline workers. The question is raised as to whether this amounts to democide ('the killing of members of a country's civilian population, as a result of its government's policy, including by direct action, indifference, and neglect'), 'social murder', gross negligence manslaughter, or misconduct in a public office?

'Does this amount to "social murder", gross negligence manslaughter, or misconduct in a public office?'

Campaigners who have raised such possibilities have watched with interest as French police searched the homes and offices of officials including the former prime minister as part of an investigation into that government's handling of the coronavirus crisis. Current and former ministers of the French Government have been targeted by at least 90 formal legal complaints from civic groups and members of the public over their response to the health emergency. In addition, a Brazilian congressional panel has recommended that President Jair Bolsonaro be charged with 'crimes against humanity', asserting that he intentionally let the coronavirus rip through the country and kill over 600,000 people in a failed bid to achieve herd immunity and revive Latin America's largest economy.

At the launch of the report (left to right): Dr Sonia Adesera, KONP; Dr Jacky Davis, panel member; Michael Mansfield QC, Chair of the panel; Professor Neena Modi; Lorna Hackett, Counsel to the Inquiry; Tony O'Sullivan, Co-Chair of KONP.

Tory Government direction is apparent in the Health and Care Bill

Mid-pandemic, the Government produced a White Paper proposing a major national reorganisation of the NHS in England. This was followed by the Health and Care Bill, currently going through Parliament. The legislative plans are consistent with the decisions taken and policy direction during the pandemic. The decision makers have had much extra freedom during the pandemic, with less scrutiny over contract distribution.

The Health and Care Bill will centralise extraordinary powers in the hands of the Secretary of State for Health and Social Care, will deregulate a great deal of contracts awarded in the NHS, and facilitate the current policy direction of embedding private interests in the NHS. It contains proposals that will diminish the powers of local authorities and the ability of local populations to have access to NHS plans and proposals and a chance to challenge.

The Bill does not end the policy of procurement through private contracting that has been awash with conflicts of interest. There are therefore genuine concerns that the new Health Bill will facilitate that culture rather than repair it. Events such as Immensa in October and Owen Paterson in November (although not directly related to the pandemic, one of his paid jobs was with the private laboratory company Randox, a major pathology contractor in the Government's outsourced parallel pathology system – he has since resigned as MP) have reinforced the concern that there is a serious loss, if not a total breakdown, of governance and integrity in public life – sleaze is in the headlines. This is in itself a threat to the public's health.

The lessons to be learned from the pandemic have not been learned by Government and ministers. The People's Covid Inquiry panel hopes that the findings and recommendations in their report will prompt further discussion and challenge. It was a further shock to hear in November that Johnson has paid Deloitte £900,000 to prepare evidence for the inquiry in the spring, an inquiry which will, amongst other issues, look into Deloitte's handling of the Test and Trace failed services. If and when the judge-led public inquiry calls for evidence, the People's Covid Inquiry panel will make their report and supporting documents available for scrutiny. Haldane welcomes such scrutiny and commends the People's Covid Inquiry report, which should be widely read among socialists, legal practitioners and all concerned citizens who want to save the NHS.

Michael Mansfield is a QC and has been centrally involved in numerous inquiries and cases such as Stephen Lawrence, Bloody Sunday, Hillsborough, Jean Charles de Menezes and McLibel. He is the President of the Haldane Society of Socialist Lawyers.

THE ATTEMPTED CRIMINALISATION OF SOLIDARITY

by Declan Owens

Left: Sarah and Seán are two of the 24 defendants in this trial. Sarah returned to the island to do search and rescue after herself making the journey from Syria, escaping the civil war.

Opposite page: Amnesty International action outside the Greek parliament while PM Mitsotakis was being questioned about the trial that is an "embarrassment to Greece".

In 2017 and 2018, Seán Binder, a 27-year-old German citizen, worked with humanitarian organisation Emergency Response Centre International on the Greek island of Lesvos to rescue refugees in the Mediterranean. Along with 22 other humanitarians, including a Syrian refugee now based in Germany, Sarah Mardini, he faces criminal charges related to their lifesaving humanitarian work. Sean and Sarah face trial on three charges classified as "misdemeanours": forgery, espionage and the unlawful use of radio frequencies (though the latter is no longer in the penal code).

In what can only be described as a political prosecution, Sean and Sarah were held in pre-trial detention for 107 days in 2018 while authorities investigated the "misdemeanours" and possible felony charges: facilitation of illegal entry; money laundering; and fraud. If convicted on all misdemeanour and felony charges, they could face up to 25 years in prison. The investigation continues and the two have not been formally indicted with any felonies. All charges are denied. On 18th November 2021, the trial was adjourned following an unconscionable three-year "investigation" and it was unclear when the trial would resume.

'If they are found guilty it could amount to criminalisation of search and rescue work,' said Mary Lawlor, UN Special Rapporteur on the situation of Human Rights Defenders. She said that 'A guilty verdict for Ms. Mardini and Mr. Binder would be a dark day for Greece, and a dark day for human rights in Europe.' Her call for the charges to be dropped was endorsed by Siobhán Mullaly, Special Rapporteur on Trafficking in Persons, especially Women and Children, and Felipe González Morales, Special Rapporteur on the Human Rights of Migrants. Questions have been asked in Dail Éireann about the case with Paul Murphy the TD for Dublin South-West tweeting: 'Saving lives is not a crime!'

Sean is a law student and member of the Haldane of Socialist Lawyers. We have offered Sean our full solidarity and have

"In what can only be described as a political prosecution, Sean and Sarah were held in pre-trial detention for 107 days in 2018."

Above: Outside the courthouse on Lesvos are some of the defendants and their legal team just after the judges decided the case must be heard at a higher court, adding further delay to this already lengthy process.

arranged with comrades in Greece and Turkey for legal observers to attend trial. We are under no doubt that the Greek state is seeking to produce a chilling effect on the rescue of migrants in the Mediterranean by seeking to criminalise solidarity. This was a theme in Haldane's 2020 conference, 'Hostile Environments' where Sean outlined his experience. These attempts to criminalise solidarity have been exemplified by the approach of Fortress EU to the refugee acrisis in the Mediterranean and of Fortress Britain towards migrants where they have created what was proudly termed a 'Hostile Environment' for migrants by the Tory Government which ultimately produced the horrific Windrush scandal where their own citizens of colour were deported.

Haldane has long opposed Tory and New Labour policies that have sought to create a hostile environment for migrants and to criminalise solidarity. There is no doubt that the Greek government are condemning further migrants to 'death sentences' in a situation where we anticipate many more climate migrants in the years to come due to the impacts of climate change and biodiversity loss. Indeed, this was a theme which we explored in our conference, as migrants can leave a hostile physical 'environment' in their homeland, only to face a hostile psychological 'environment' in their host country in what is meant to be a place of refuge. We feel that the issue of climate migration will only become a more common issue for our members and allied campaigns to engage with as we continue to show solidarity with migrants and refugees.

In the meantime, we will continue to support Sean and other human rights defenders. As Sean rightly said before the hearing, 'I feel angry that the legal requirement to help people in distress at sea is being criminalised right now. I'm angry because there is not a shred of evidence against us,' he said. 'I'm angry because we've had to wait three years now for this prosecution to take place and it's very likely that the prosecution will not continue because the indictment is so poorly constructed.' We also condemn the fact that the Greek court last week refused Sarah Mardini's lawyer's appeal to allow her to travel to Greece as an affront to the right to a fair trial.

The adjournment of this trial will exacerbate the stress for Sean and his fellow defendants in this Kafkaesque trial. We call upon the Greek authorities to drop all charges against all the defendants immediately. We will continue to resist with human rights groups and campaigners the securitisation of borders, pushbacks and collective expulsion in Fortress EU and Fortress Britain, echoing the solidarity calls that "Refugees are welcome" and "No-one is illegal".

Declan Owens is a lawyer with the Ecojustice Legal Action Centre and co-chair of the Haldane Society of Socialist Lawyers

A collective tribute to movement lawyer Georgia Lassoff (1987 – 2021)

‘We carry the fight on in her name’

Georgia Lassoff joined the Haldane Society of Socialist Lawyers executive committee in 2020, having been involved in Haldane activities like the feminist reading group since 2017. A committed socialist, she said joining Haldane was part of her ‘plan for joy and resistance’ within and against the world of lawyering. This is something we should try to always live up to.

Georgia had a clear-eyed vision of why she was at the Bar and it wasn’t only (as in a story she told) because she had found there to be too many circus skills in London’s anarchist organising spaces. She was, and should be remembered as, a true movement lawyer: fighting on so many fronts without ever centering herself; endlessly generous and creative in finding ways to put the knowledge she worked hard to access by becoming a barrister at the service of the movement – as the tributes below from collectives she organised with are testament to. She wholeheartedly believed a better world was possible and wasted no time cracking on with the work of bringing it about. She was also hilarious, queen of memes, profoundly strong, abundantly kind.

Those of us who had the honour to call Georgia a friend and comrade will always deeply miss her presence alongside us, will always be immensely proud to have known her, and will always endeavour to carry her fierce dedication, wit, grace and strength onwards with us in our fight for another world.

● Maya Thomas-Davis, Haldane Society of Socialist Lawyers

‘She had the rare combination of brilliance tempered with good humour that made her well suited to movement work’

Banner-drop for Georgia at the Royal Courts of Justice, November 2021.

■ In the realm of the law, where attitudes towards marginalised groups range from indifferent to hostile, Georgia exuded rare grace and generosity.

She knew where her skills would be useful and made efforts to avail herself to the right people. She was pro-active, but would always listen without overstepping. She had the rare combination of brilliance tempered with good humour that made her well suited to movement work, which can be difficult and slow moving even when your sights are set on modest goals.

However, Georgia was ambitious about change and her plans were not modest; she rightly named criminalisation as a key driver of violence against people who sell sex and she was determined to make inroads to liberation with us. She was able to not simply see the outrage in persecution, but strategise ways to upend it.

Recognising the importance of women being informed of their rights against violence and criminalisation, she lent her expertise to help ensure that a grassroots initiative to explain the laws was accurate and accessible. She was equally dedicated and scrupulous doing the day-to-day legal defence work helping sex workers facing eviction and discrimination as well as the strategic pathbreaking cases such as a judicial review of the prostitution laws. This latter case was initiated as part of a longer strategy towards full decriminalisation of sex work, a goal she spoke to us often about with passionate lucidity. We hope that on some level she knew in those moments how radical it was for us, as sex workers, to hear a lawyer talking like that; not only did she address us as colleagues and equals, but she made it seem possible that our wildest dreams as activists might become a tangible reality within our lifetimes. Those conversations with her were refreshing and clarifying, and her drive and the humour she was able to bring with it was always uplifting. Her presence alongside us in the movement as an activist, and as our friend, will be deeply missed.

We grieve the loss of Georgia and that she did not live to see these goals come to light but we carry the fight on in her name.

● SWARM and English Collective of Prostitutes

'She shone with the excitement and enthusiasm that builds the best kind of activism'

■ When we look back to the foundations of Black Protest Legal Support (BPLS), Georgia is there, giving us her hand in exceptional ways.

She was on the ground giving advice, she was messaging Directors with offers of help and expertise, and she shone with the excitement and enthusiasm that builds the best kind of activism. But what marked her out for us is that all this she contributed with respect, understanding what it meant to work in coalition, in this new space we were building for and by Black, Brown and Racialised people. She had such a commitment to supporting grassroots organising and we are privileged to have had her from our inception. Georgia showed up in the best way for our communities. She knew exactly what was needed and gave it with pride, and in her unique way was a true fighter and a true friend. Georgia is an enormous loss to BPLS and the profession. Even though she is not with us anymore, she has left us her sparkle, her drive, and her kindness. These are gifts that all at BPLS will continue to cherish, and we miss her deeply.

● Black Protest Legal Support (BPLS)

>>>

A collective tribute to movement lawyer Georgia Lassoff (1987 – 2021)

Georgia legal observing with BPLS, Black Lives Matter protests, 7th June 2020.

■ Georgia was extraordinary. Aside from her intellectual prowess, what made her stand out was her willingness to give freely of her time to help others. While studying for the Bar, she volunteered for Advising London, helping to solve housing and welfare issues; taught prisoners debating skills as part of the Vocalise programme; worked for the Sean Riggs Project, a monthly police complaints surgery; and helped establish and manage the Trew Era Café to assist ex-offenders with substance misuse issues re-enter employment.

As a tenant at Red Lion Chambers she continued to pursue her political and social interests. We were all proud of her feisty determination; her professionalism and care for the underdog; and her acute sense of justice and fairness – all leavened and lightened by a wicked sparkle of humour.

She published a number of legal articles, contributed to eminent legal texts, presented seminars, appeared in a Get Legally Speaking podcast to discuss the Safer Streets campaign as well as assisting in Chambers' pupil training and outreach mentoring programme. She was fiercely committed to LGBTQ+ rights, equality and tackling racism. She was a legal observer for Black Protest Legal Support UK; provided *pro bono* advice for Women against Rape and the English Collective of Prostitutes; and worked *pro bono* with the Centre for Women's Justice's legal reference panel where she was an enthusiastic and highly valued member. Georgia made a real difference to people's lives, and we know that those she helped were hugely grateful.

We can be very grateful that she accepted a place with Red Lion Chambers. She was rightly seen as a rising star. She will be profoundly missed by us all. We are honoured to have known her.

● Caroline Baker, Red Lion Chambers

'What made her stand out was her willingness to give freely of her time to help others'

'Georgia made a real difference to people's lives and we know those she helped were hugely grateful'

■ Georgia was a shining presence at the yearly Pride parades, whether it was comparing tattoos with Brie, jumping (illicitly?) on the solicitors' bus, or encouraging her fellow barristers to dance along to music. Everyone at FreeBar will miss Georgia, though may her memory and her support of queer people live on.

● Mx Oscar Davies, FreeBar

■ Georgia left an indelible mark on the LSE-Featherstone LGBT Moot. She competed as a student and came back to judge it when she qualified as a barrister. She fully threw herself into the event; she was inclusive, supportive and enthusiastic. She attended the workshops and socials to encourage LGBT+ and ally aspiring barristers that they could be queer without fear at the Bar. We are deeply saddened that she's gone. The Moot's annual 'Spirit of the Competition' award will be named in Georgia's honour from next year, as her approach is truly one to celebrate.

● Ollie Persey, LSE-Featherstone LGBT Moot

Georgia marching in stride with her LGBTQ+ legal comrades at London Pride, July 2019.

■ In the weeks following Georgia's death, the same response was echoed again and again: 'she was helping me with something', or (among those who loved her most), 'she was there for me'. She seemed to be personally supporting everyone, in one way or another – with writing submissions, researching an appeal point, a judicial review, legal advice for a friend of a friend, a mental health crisis, sobriety. She was a passionate, principled feminist. On the CWJ's legal reference panel, she gave *pro bono* advce, often at very short notice. She also volunteered for Women Against Rape.

Georgia had an incredible knack for sharing her resources. Her skills, time, wisdom, outrageous sense of humour – all were endlessly available to the people and the causes she held dear. This personal gift is what made her such a fantastic activist. She not only exuded energy, but also bolstered and energised the projects and the people she worked with. She was a phenomenal force to have on your team.

Georgia was a true comrade, and a true friend. She was a gift to the fight for a better world. Those who knew her hold all the ways she inspired us close to our hearts, and take her with us.

● Sarah-Jane Ewart, formerly CWJ, One Pump Court

'Georgia was a true comrade and a true friend. She was a gift to the fight for a better world.'

'Her unparalleled capacity for hard work and her profound generosity with her time underscored everything she did.'

■ In mid 2018, Georgia was appointed a co-director of Vocalise, an organisation through which graduate law students deliver a debate-training programme in prison education departments across London.

Georgia was, at that time, a law student herself. She had just begun the vocational part of her studies to become a barrister, and she was already balancing that demanding full-time course alongside paid work to support herself. Her unparalleled capacity for hard work and her profound generosity with her time underscored everything she did.

In 2018-2019, Georgia personally trained 25 of the 50 Vocalise volunteers who went on to teach inmates alongside her that year. She ran the programme – alone – in two prisons, Pentonville and Downview. She managed to sweet-talk leading lawyers and judges into giving up their time to attend prisons and judge 'final debates' between inmate debaters and external university teams from Oxbridge and elsewhere.

Georgia believed in empowering people to advocate for themselves. She knew from personal experience that adversity can be a fertile ground for great advocates if people have access to the right tools and time. She dedicated so much of her life to others, and providing people with those tools where they were not otherwise to hand. Georgia was a great advocate. Her example will continue to encourage many more.

● Ruby Shrimpton, Vocalise

Pictures: © Jess Hurd

Haldane co-chair **Declan Owens** argues that the hollow words and non-binding targets emerging at COP26 means a socialist analysis to international environmental law is more vital than ever before.

COP OUT

The UN Climate Change Conference (COP26) convened in Glasgow during the first two weeks of November 2021 after being delayed for a year because of the Covid-19 crisis.

The pre-existing and ongoing crisis relating to climate change and biodiversity loss has resulted in purported declarations of climate emergencies in various parliaments, including by the UK. The Haldane Society asserted that the response to the Covid-19 crisis is a 'time for ideology' when the Tories said it was 'not a time for politics' and, similarly, we maintain that the climate crisis is a time for socialist system change for climate justice.

Accordingly, Haldane members attended COP 26 without any illusions that the Tory regime that was holding the Presidency of the COP 26 Summit would take the necessary action. We had produced a detailed legal statement (see pages 30 to 37) which was submitted to Secretariat of the UN Framework Convention on Climate Change, calling for: 'no more cooking the books' (no to fossil fuels, net-zero and false solutions); a 'rejection of false solutions' (no to carbon markets and risky and unproven technologies); and a rewiring of the capitalist system, including a start to the Justice Transition now. Haldane was a member of the COP 26 Coalition of trade unions and civil society organisations, assembled to produce a Global Day of Action and People's Summit, the latter being a parallel COP where the real issues pertaining to climate justice and the real solutions that are needed were discussed.

We called for global climate justice, which means a fair share of effort from all rich countries; cancellation of the debts of the Global South by all creditors; grant-based climate finance for the Global South; and reparations for the loss and damage **>>>**

>>> already happening in the Global South. This also means migrant justice, as envisaged in our October 2020 Hostile Environments conference, which was anticipating increasing climate migration and campaigning against illegal pushbacks by Fortress EU and Fortress Britain. The need for ongoing decolonialisation, including the issue of 'carbon colonialism', was repeatedly highlighted with the case for reparations for the imperialism of the Global North now unanswerable.

It was always going to be the case that COP 26 was not going to deliver climate justice as per the demands of the COP 26 Coalition or Haldane's legal statement, especially under a Tory Presidency. The value of our membership of the COP 26 Coalition was the opportunity to continue to build a 'movement of movements' to campaign for climate justice. This included our participation in the People's Summit, which provided in-person and virtual access to people from the Global South, including indigenous peoples, the disabled and youth.

Our delegation attended the following events (amongst others) on behalf of Haldane and the International Association of Democratic Lawyers, making various interventions as per our legal statement:

- International Tribunal on the Rights of Nature;
- Stop Ecocide International's events;
- Scotia Group conference;
- Climate Change Legislation, Litigation & the Rule of Law conference;
- Mobilising the Rule of Law in Climate;
- The launch of Military Emissions Gap;
- Climate-related conflict conference;
- Just Transition conference (trade union led climate justice); and
- COP 26 Coalition daily 'Movement Assemblies' (hearing reports back from the

Picture: © Jess Hurd

The IADL COP26 statement

This statement addresses the climate and biodiversity crisis and suggests solutions. The International Association of Democratic Lawyers (IADL) calls upon the States Parties attending COP 26 not only to adhere to their obligations under the Paris Agreement but go beyond the non-binding targets and achieve real zero emissions and not rely on net zero targets, as well as for Global North powers to provide climate debt reparations to the countries of the Global South, who have borne the brunt of exploitation, forced de-development and climate crisis. The aims of the IADL include promoting the preservation of ecology and healthy environments; and defending peoples' rights to development and for conditions of economic equality and the enjoyment of the fruits of scientific progress and natural resources. We see it as essential that the climate crisis is not placed in opposition to the right of the Global South to develop. It is with these aims in mind that we submit this statement to the COP 26 Secretariat to achieve climate justice and a Just Transition for the peoples of the world.

About the International Association of Democratic Lawyers

Since IADL's founding in 1946 in Paris, IADL members have participated in the struggles that have made the violation of human rights of groups and individuals and threats to international peace and security, legal issues under international law. From its inception, IADL members throughout the globe have protested racism, colonialism, and economic and political injustice wherever they interfere with legal and human rights, often at the cost of these jurists personal safety and economic well being.

IADL campaigns have led to changes in international humanitarian law like the universal acceptance of the importance of the right to self-determination and the protection of national human rights in arguments before UN bodies and international courts in a reinterpretation of the doctrine of "domestic jurisdiction," formulated in Article 2, paragraph 7 of the UN Charter, a former barrier to international action in support of those basic rights.

This global evolution led by IADL lawyers has made possible United Nations' intervention in situations of massive and institutionalised human rights abuses beginning with UN action in the 1960s regarding South Africa's apartheid policies which had divested all human and legal rights from the black majority.

Through their efforts IADL lawyers have helped to establish fundamental concepts of international and domestic law including the declaration of apartheid as a crime against

UNFCCC negotiations, developing rapid responses, actions and discussing strategy questions facing our global movements).

Ultimately, the Glasgow Climate Pact is an utter betrayal of the world's peoples.

It contains hollow words and non-binding targets on the climate emergency from the richest countries, with a complete disregard of justice and the science within the Intergovernmental Panel on Climate Change – the United Nations body for assessing the science related to climate change – 'Code Red' 2021 report.

The UK Government's greenwashing and public relations propaganda have spun us off course. The rich countries of the Global North refused to do their fair share, with more empty words on climate finance and turning their back on the poorest who are facing a crisis of Covid coupled with economic and climate apartheid – all caused by the actions of the richest.

Haldane considers that it is immoral for the rich countries of the Global North to sit there talking about their future children and grandchildren when the children of the South are suffering now. This COP has failed to keep 1.5c alive and has set us on a pathway to 2.5c. This was all while claiming to act as they set the planet on fire. At COP26 the richest got what they wanted, and the poorest were left with nothing.

However, Haldane is determined to contribute to the global 'movement of movements' to bring a socialist analysis to international environmental law, which includes highlighting the 'military emissions gap' in climate targets, recognition of the Rights of Nature and supporting the growing Ecocide campaign.

Declan Owens is a lawyer with the Ecojustice Legal Action Centre and co-chair of the Haldane Society of Socialist Lawyers

humanity; the provision of prisoner of war status to combatants from liberation movements; prohibition of the use of unilateral force by one nation against another; the recognised legal right of peoples to self-determination; the recognized legal rights of women and children; and the almost universal public policy acceptance that there should be legal remedies for racial, religious, economic and cultural discrimination and persecution.

IADL's aims

The aims of the International Association of Democratic Lawyers, a Non-Governmental Organization (NGO) with consultative status to ECOSOC and UNESCO are:

- To facilitate contact and exchanges of views among lawyers and lawyers-associations of all countries to foster understanding and goodwill among them.
- To work together to achieve the aims set out in the Charter of the United Nations.
- To ensure common action by lawyers:
- In the realm of law, the study and practice of the principles of democracy to encourage the maintenance of peace and cooperation among nations.
- To restore, defend and develop democratic rights and liberties in legislation and in practice.
- To promote the independence of all peoples and to oppose any restriction on this independence whether in law or in practice.
- To defend and promote human and peoples' rights.
- *To promote the preservation of ecology and healthy environments.*
- To struggle for strict adherence to the rule of law and the independence of the judiciary and legal profession.
- To defend peoples' rights to development and for conditions of economic equality *and the enjoyment of the fruits of scientific progress and natural resources.*

Lack of Progress in meeting the Paris Agreement Targets

A. IPCC report

The IPCC confirmed in August 2021 that:

- It is unequivocal that human influence has warmed the atmosphere, ocean and land.
- Widespread and rapid changes in the atmosphere, ocean, cryosphere and biosphere have occurred.
- The scale of recent changes across the climate system as a whole and the present state of many aspects of the climate system are unprecedented over many centuries to many thousands of years.
- Human-induced climate change is already affecting many weather and climate extremes in every region across the globe. Evidence of observed changes in extremes such as heatwaves, heavy precipitation, droughts, and tropical cyclones, and, in particular, their attribution to human influence, has strengthened since the Fifth Assessment Report (AR5).
- Improved knowledge of climate processes, paleoclimate evidence and the response of the climate system to increasing radiative forcing gives a best estimate of equilibrium climate sensitivity of 3°C, with a narrower range compared to AR5.

Furthermore, in relation to possible 'Climate Futures', the IPCC suggested that:

- Global surface temperature will continue to increase until at least the mid-century under all emissions scenarios considered. Global warming of 1.5°C and 2°C will be exceeded during the 21st century unless deep reductions in carbon dioxide (CO2) and other greenhouse gas emissions occur in the coming decades.
- Many changes in the climate system become larger in

>>>

>>> direct relation to increasing global warming. They include increases in the frequency and intensity of hot extremes, marine heatwaves, and heavy precipitation, agricultural and ecological droughts in some regions, and proportion of intense tropical cyclones, as well as reductions in Arctic sea ice, snow cover and permafrost.

- Continued global warming is projected to further intensify the global water cycle, including its variability, global monsoon precipitation and the severity of wet and dry events.
- Under scenarios with increasing CO2 emissions, the ocean and land carbon sinks are projected to be less effective at slowing the accumulation of CO2 in the atmosphere.
- Many changes due to past and future greenhouse gas emissions are irreversible for centuries to millennia, especially changes in the ocean, ice sheets and global sea level.

The IPCC provided us with 'Climate Information for Risk Assessment and Regional Adaptation':

- Natural drivers and internal variability will modulate human-caused changes, especially at regional scales and in the near term, with little effect on centennial global warming. These modulations are important to consider in planning for the full range of possible changes. With further global warming, every region is projected to increasingly experience concurrent and multiple changes in climatic impact-drivers. Changes in several climatic impact-drivers would be more widespread at 2°C compared to 1.5°C global warming and even more widespread and/or pronounced for higher warming levels.
- Low-likelihood outcomes, such as ice sheet collapse, abrupt ocean circulation changes, some compound extreme events and warming substantially larger than the assessed very likely range of future warming cannot be ruled out and are part of risk assessment.

The IPCC also provided proposals for limiting future Climate Change:

- From a physical science perspective, limiting human-induced global warming to a specific level requires limiting cumulative CO2 emissions, reaching at least net zero CO2 emissions, along with strong reductions in other greenhouse gas emissions. Strong, rapid and sustained reductions in CH4 emissions would also limit the warming effect resulting from declining aerosol pollution and would improve air quality.
- Scenarios with low or very low greenhouse gas (GHG) emissions (SSP1-1.9 and SSP1-2.6) lead within years to discernible effects on greenhouse gas and aerosol concentrations, and air quality, relative to high and very high GHG emissions scenarios (SSP3-7.0 or SSP5-8.5). Under these contrasting scenarios, discernible differences in trends of global surface temperature would begin to emerge from natural variability within around 20 years, and over longer time periods for many other climatic impact- drivers (high confidence).

Further reports from the IPCC have been leaked but not yet published, highlighting that "the character of economic development produced by the nature of capitalist society… [is] ultimately unsustainable." Delaying measures or relying on unproven technologies rather than sharp limitations or undoing of capitalist growth only threaten the future of the planet.

B. The NDC Synthesis Report

On 17th September 2021, UN Climate Change published a synthesis of climate action plans as communicated in countries' Nationally Determined Contributions (NDCs). The NDC Synthesis report indicates that while there is a clear trend that greenhouse gas emissions are being reduced over time, nations must urgently redouble their climate efforts if they are to prevent global temperature

Pictures: © Jess Hurd

'The ecosystem itself should be named as the injured party, with its own legal standing rights, in cases alleging rights violations.'

increases beyond the Paris Agreement's goal of well below 2C – ideally 1.5C – by the end of the century.

The Synthesis Report was requested by Parties to the Paris Agreement to assist them in assessing the progress of climate action ahead of the UN Climate Change Conference (COP26) this November in Glasgow, Scotland.

The report includes information from all 191 Parties to the Paris Agreement based on their latest NDCs available in the interim NDC registry as at 30th July 2021, including information from 86 updated or new NDCs submitted by 113 Parties. The new or updated NDCs cover about 59% of Parties to the Paris Agreement and account for about 49% of global GHG emissions.

For the group of 113 Parties with new or updated NDCs, greenhouse gas emissions are projected to decrease by 12% in 2030 compared to 2010. This is a step towards the reductions identified by the Intergovernmental Panel on Climate Change (IPCC), which estimated that limiting global average temperature increases to 1.5C requires a reduction of CO2 emissions of 45% in 2030 or a 25% reduction by 2030 to limit warming to 2C. Within the group of 113 Parties, 70 countries indicated carbon neutrality goals around the middle of the century. This goal could lead to even greater emissions reductions, of about 26% by 2030 compared to 2010. Despite some progress, the evidence remains clear that we need an emergency response by the international community akin to the response to the Covid Crisis.

Adopting an Indigenous Peoples' worldview and solutions to the Climate and Biodiversity Crisis

IADL believes that Nature has rights in line with the Cochabamba Universal Declaration on the Rights of Mother Earth. This Declaration was presented to the UN General Assembly in conjunction with deliberations on Living in Harmony with Nature. However, the Declaration was merely 'noted' so the IADL believes that it should be ratified by all States Parties, as such indigenous eco-centric, synergistic, and harmonious worldviews hold solutions to the climate crisis.

IADL recognises that our ecosystems – including trees, oceans, animals, mountains – have rights just as human beings have rights. Rights of Nature is about balancing what is good for human beings against what is good for other species, and what is good for the planet as a world. It is the holistic recognition that all life, all ecosystems on our planet are deeply intertwined. It is opposed to a Eurocentric view that sees rights to commodities rather than a duty and relationship with nature from people. Although the adoption by the UN Human Rights Council on 8th October 2021 of a resolution recognising the human right to a safe, clean, healthy and sustainable environment is a positive step, it is imperative that international and domestic legal frameworks also fully recognise the inherent Rights of Nature.

Indeed, rather than treating nature as property under the law, the Rights of Nature concept acknowledges that nature in all its life forms has the right to exist, persist, maintain and regenerate its vital cycles. And we – the people – should have the legal authority and responsibility to enforce these rights on behalf of ecosystems. The ecosystem itself should be named as the injured party, with its own legal standing rights, in cases alleging rights violations.

Furthermore, in 2019 a number of small island states, including Vanuatu, raised ecocide as an issue for 'serious consideration' at the ICC's annual assembly of states parties. On 22nd June 2021 there was an historic agreement reached on a refined definition of ecocide, stating that it is "*unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and widespread or long term* >>>

>>> *damage to the environment being caused by those acts."*

This definition was forged by a panel of international jurists, including Elisabeth Dior Fall Sow from the UN.

The Rome Treaty and Statute in 1998 was intended to include ecocide as the fifth international crime against the peace alongside genocide, to be prosecuted at the newly established International Criminal Court in The Hague. However, vested national interests prevented this. Since then, many nations have signed up to this proposal, which alerts the world to the criminal nature of the attack on the planet's climate, resources and environment, especially impacting Indigenous Peoples in the Global South and in parts of the Global North, such as the United States and Canada. The IADL believes that, as per the ICC Report, it is beyond doubt that time is running out and adopting the crime of ecocide will demonstrate that climate change and biodiversity loss is being taken seriously by States Parties, and that this requires legal sanctions as part of the armoury challenging exploitation and desecration. At the same time, we warn against the attempts of some parties in the global North to utilise such legal tools to enforce the de-development of the global South rather than holding accountable precisely those parties responsible for the climate crisis and the plunder of the resources of nature and the world. Such attempts – for example, efforts to prosecute Venezuelan leaders while leaving Canadian mining corporations running rampant throughout the region and US promulgators of unilateral coercive measures impoverishing the Venezuelan economy untouched – only lend discredit to this legal approach.

International Response to the Covid Crisis8

In 2020 COVID-19 affected almost all countries and potentially infected more than 50 million people around the world. It has governments operating in a context of radical uncertainty, and faced with difficult trade-offs given the health, economic and social challenges it raises. By spring 2021, more than half of the world's population had experienced a lockdown with strong containment measures. Beyond the health and human tragedy of the coronavirus, it is now widely recognised that the pandemic triggered the most serious economic crisis since the Second World War. Many economies will not recover their 2019 output levels until 2022 at the earliest. A rebound of the epidemic in autumn 2021 is increasing the uncertainty. The nature of the crisis is unprecedented: beyond the short-term repeated health and economic shocks, the long-

Pictures: © Jess Hurd

term effects on the lives of people around the world may be long-lasting. The COVID crisis has massively accelerated some pre-existing trends, in particular digitalisation and the dominance of platform capitalism, including precarious labour and "Big Tech" monopolies. It has shaken the world, setting in motion waves of change with a wide range of possible trajectories.

There is a strong territorial dimension to the COVID-19 crisis. Subnational governments – regions and municipalities – are at the frontline of the crisis management and recovery, and confronted by COVID-19's asymmetric health, economic, social and fiscal impact – within countries but also among regions and local areas. For example, the health of populations in some regions is more affected than in others. Large urban areas have been hard hit, but within them deprived areas are more strongly affected than less deprived ones. Over the past 18 months, the health impact has spread towards less populated regions in some countries. In the United States for instance, the highest increase in the number of deaths occurring in October 2021 were in the rural counties not adjacent to a metropolitan area. The various risks vary greatly depending on where one lives and IADL remains concerned about the unequal distribution of vaccines to the Global South. This regionally differentiated impact calls for a territorial approach to policy responses on the health, economic, social, fiscal fronts, and for very strong inter-governmental coordination. The scarcity/abundance of vaccines in certain countries is evident and follows existing power and privilege pathways within the Global North.

Many governments at all levels have reacted quickly, applying a place-based approach to policy responses, and implementing national and subnational measures for in response to the COVID-19 crisis:

- On the health front, many countries are adopting differentiated territorial approaches, for example on policies surrounding masks or lockdowns.
- On the socio-economic front, governments are providing massive fiscal support to protect firms, households and vulnerable populations. They have spent more than USD 12 trillion globally since March 2020. Many countries, and the EU, have reallocated public funding to crisis priorities, supporting health care, SMEs, vulnerable populations and regions particularly hit by the crisis. In addition, more two thirds of OECD countries have introduced measures to support subnational finance – on the spending and revenue side – and have relaxed fiscal rules.
- Many governments announced large investment recovery packages – already much larger than those adopted in 2008 – focusing on public investment. These investment recovery packages prioritise three areas: strengthening health systems; (ii) digitalisation; (iii) accelerating the transition to a carbon neutral economy.

> **"We warn against attempts to utilise legal tools to enforce the de-development of the global South.'**

The Fossil Fuel Non-Proliferation Treaty

The Fossil Fuel Non-Proliferation Treaty Initiative is spurring international cooperation to end new development of fossil fuels, phase out existing production within the agreed climate limit of 1.5°C and develop plans to support workers, communities and countries dependent on fossil fuels to create secure and healthy livelihoods. Cities such as Vancouver and Barcelona have already endorsed the Treaty with more considering motions to endorse. Hundreds of organisations representing thousands more individuals join the call for world leaders to stop fossil fuel expansion.

Over two thousand academics across disciplines and from 81 countries have delivered a letter* demanding a Fossil Fuel Non-Proliferation Treaty to manage a global phase out of coal, oil and gas to governments gathering at the UN General Assembly (14th-30th September 2021).

In the open letter, the academics recognise that the burning of coal, oil and gas is the greatest contributor to climate change – responsible for almost 80% of carbon dioxide emissions since the industrial revolution. Furthermore, they note that, "air pollution caused by fossil fuels was responsible for almost one in five deaths worldwide in 2018."

Despite this, national governments, including the COP26 hosts themselves, plan to expand fossil fuel production at levels that would result in around 120 percent more emissions than what is in keeping with the Paris Agreement target of 1.5°C of warming.

IADL's demands

Ahead of COP 26, the IADL demands the States Parties achieve the following objectives:

- **1.** Emergency action at a scale and at a pace commensurate with the action taken by states parties to the Covid Crisis, in line with the principle of common yet differentiated responsibilities.
- **2.** No more fossil fuel extraction or false solutions like blue hydrogen or Carbon Capture and Storage.
- **3.** Maintain the fight for 1.5°C or lower.
- **4.** We need 'Real Zero' emission targets, not 'Net Zero' targets premised on future extraction.
- **5.** States Parties should sign a Fossil Fuel Non-Proliferation Treaty.
- **6.** Rejection of Carbon Markets and the associated 'carbon colonialism'.
- **7.** Start the Justice Transition now with a sense of urgency to address the climate and biodiversity emergency.
- **8.** Global Climate Justice: reparations and redistribution to indigenous communities and the Global South. Hydrocarbon exporters like Bolivia, Venezuela and Trinidad and Tobago are perhaps uniquely vulnerable and require reparations for centuries of unjust extraction imposed upon them by the North.
- **9.** Fair share of effort from all rich countries.
- **10.** Cancel the debts of Global South by all creditors. These onerous debts are a primary barrier to the Global South, especially as reparations are an economic, political and moral necessity.
- **11.** Grant-based climate finance for the Global South.
- **12.** Reparations for the loss and damage already happening in the Global South and >>>

'We need system change for climate justice, rather than just reforms according to the existing dominant models of property rights and the "sovereignty of contract law" within the world's legal systems.'

>>> indigenous communities. In 2010, Bolivia proposed a 6% transfer of OECD GDP on an annual basis from the global North to the global South as a floor for climate debt reparations. This is only a floor and not a ceiling, as climate debt is but one portion of the overall ecological debt and colonial debt owed to the Global South.

13. End nuclear energy plans and proliferation of nuclear weapons.

14. Eliminate and dismantle the military industrial complexes of world powers, especially the permanent members of the UN and the other countries with nuclear arsenals or submarines powered by nuclear weapons as proposed in the AUKUS agreement between the UK, US and Australia. The military interventions and invasions promulgated by these powers have visited broader destruction and devastation – including ecological devastation – upon the peoples of the world, forcing other nations to develop their militaries in order to defend themselves from these powers.

15. We need emergency action to stop catastrophic climate change. Global temperature rise must be limited to 1.5°C – anything above this means that climate change is no longer just disastrous, but catastrophic. Even if governments claim this is their target, current plans don't put us anywhere near on track to achieve this.

16. It's also not just about the number, it's also about how we get there. The multiple crises we face are not going to be solved with more exploitation of people and the planet, and 'cooking the books.' Current government and corporation targets of 'Net Zero' do not mean zero emissions. Instead, they want to continue polluting while covering it up with 'carbon offsets'. We need commitments and action to achieve Real Zero. That also means no new fossil fuel investments and infrastructure at home or abroad, and saying no to Carbon Markets, and banking on risky unproven technologies that allow countries and corporations to continue polluting. No to mass afforestation schemes without community consultation and approval, "half-Earth" so-called conservation reserves at the expense of Global South peasants and Indigenous people, interventions in nutrition and reproduction in the Global South, and other unproven technologies that come at the expense of the South rather than as repayment of climate debt.

17. We call for accelerated and strengthened implementation of the Convention on the Elimination of All Forms of Discrimination against Women, Security Council Resolution 1325, and all other relevant legal instruments and treaties, as well as Agenda 2030, especially Sustainable Development Goal #5. This will help ensure that the disproportionate influence of climate change on women is addressed.

18. Human rights commitments contained in the Convention on the Rights of the Child and the Paris Agreement make clear that States have affirmative obligations to take action to protect the rights and best interests of the child from the actual and foreseeable adverse effects of climate change. Failure to take adequate steps to prevent children from suffering foreseeable climate-related human rights harms breaches these obligations. Therefore, IADL believes that States must:

- Ensure climate mitigation and adaptation measures are the product of participatory, evidence-based decision-making processes that take into account the ideas and best interests of children as expressed by children themselves;

- Take ambitious measures to minimise the future negative impacts of climate change on children by limiting global warming to no more than 1.5°C above pre-industrial levels; and
- Focus adaptation measures on protecting those children most vulnerable to the impacts of climate change.

■ **20.** Implementation of the Framework Principles on the Environment and Human Rights.

■ **21.** International recognition of the law of ecocide.

■ **22.** Rights of Nature should be recognised in all jurisdictions of the States Parties, as suggested by the UN General Assembly's Resolution on Harmony With Nature in December 2019.

■ **23.** States Parties should develop immigration policies which properly anticipate climate migration for climate 'refugees' under the Geneva Convention or come to an international migration agreement that will deal with this issue at the scale that is necessary.

■ **24.** There should be a justiciable right to food, as suggested by the work of the Office of the High Commissioner on Human Rights.

■ **25.** There should be a justiciable right to water. This is in line with Resolution 64/292 whereby the United Nations General Assembly explicitly recognised the human right to water and sanitation and acknowledged that clean drinking water and sanitation are essential to the realisation of all human rights. The Resolution calls upon States and international organisations to provide financial resources, help capacity-building and technology transfer to help countries, in particular developing countries, to provide safe, clean, accessible and affordable drinking water and sanitation for all.

■ **26.** We call for accelerated and strengthened implementation of the International Convention on the Elimination of All Forms of Racial Discrimination to ensure that the disproportionate influence of climate change on racialised groups is addressed in migrant communities in the Global North and Indigenous Peoples in the Global South.

Conclusion

We need a Just Transition led by rural and urban workers and indigenous peoples – rewiring our system in a way that addresses injustices, poverty and inequalities. This means shifting away from the fossil fuel industry and investing in renewable energy to create decent unionised green jobs and services. Rewiring the system must centre and value care work and the protection and reproduction of nature, historically done by peoples of the Global South, rural people and indigenous people. This work is currently done predominantly by unpaid or underpaid women, migrants and people of colour – from health care to housework. But these new infrastructures and services can't only be built in the Global North with resource extraction and human rights abuses in the Global South. Local and global justice must be at the heart of this transition, through people-owned decentralised energy systems, expansion of care services, locally sourced food, and green and affordable housing and public transport.

Climate action must be based on who has historically profited and those who have suffered. Indigenous Peoples have been at the frontline of the root causes of climate change for centuries. Indigenous Peoples, frontline communities and the Global South cannot continue to pay the price for the climate crisis, especially with the impact of rising seas on indigenous communities, while the Global North profits – in fact the loss and damage must be compensated. Each country's carbon emission reduction must be proportional to their fair share: how much they have contributed to the climate crisis through past emissions. We must cancel debts of Global South by all creditors and the rich countries must provide adequate climate reparations for those on the frontline of the climate crisis to survive. We must address the loss of lives, livelihoods and ecosystems already occurring across the world, through a collective commitment to providing reparations for the loss and damage in the Global South and indigenous communities.

The IADL has set out the demands we consider necessary as a floor and not a ceiling to attempt to avert the worst impacts of the climate and biodiversity crisis. The States Parties at COP 26 must act in a radical and ambitious manner for the future of humanity, for peace, justice, and human rights in line with the principles that helped IADL lawyers draft the Universal Declaration of Human Rights. We need system change for climate justice, rather than just reforms according to the existing dominant models of property rights and the 'sovereignty of contract law' within the world's legal systems. As the IPCC stated, this is 'Code Red' for humanity so IADL believes that emergency action is required by the States Parties akin to the Covid-19 emergency responses. Capitalism (past and present) and colonialism (past and present) have caused and continue to cause the climate and biodiversity crisis; socialist policies that respect our environment and the indigenous eco-centric, synergistic, harmonious worldviews are the answer. ■

The full version of the IADL statement, including footnotes and the open letter* from academics, is available here: **bit.ly/IADL-COP26**

Pictures: © Jess Hurd

LAWYERS AND REVOLUTION IN THE MIDDLE EAST

by Zoe Darling

A decade has passed since popular protests in Tunisia ignited uprisings across the Middle East and North Africa, with millions of people taking to the streets to topple long standing dictatorial regimes and demand that their political voices be heard.

Organised in conjunction with the Middle East Solidarity Network, the Haldane Society of Socialist Lawyers, in June 2021, brought together lawyers and activists from Syria, Lebanon, and Egypt to reflect upon how popular mobilisation and rebellion have changed the region.

Drawing upon their experiences over the past decade, speakers explored the limits of legal recourse where state infrastructure is co-opted by the ruling classes, the paradigm of radical lawyering under authoritarian rule, and how the international community can show solidarity with comrades across the MENA region.

SYRIA

Roula Mourad, a Beirut-based Syrian activist and lawyer, has extensive experience defending political detainees and advocating for civil rights and freedoms. Roula's contributions focused on the limited use of the law means to achieve justice, with the legal infrastructure adopted by the Assad regime as a tool to legitimise its actions, stifle dissent and sustain the status quo.

Since seizing power in 1963, the ruling Ba'ath party has maintained a tight grip on civil and political life, first through former President Hafez al-Assad and since 2000 through his son Bashar. In 2011, the Syrian people took to the streets to demand meaningful political transition. The regime responded militarily with live ammunition, and politically with further suppressions of civil liberties.

The state has since prevented Syrians from pursuing justice within the confines of the law

Lawyer Haitham Mohammadein speaking to activists marching in Talaat Harb St, heading to Tahrir Square, celebrating May Day, 2011.

Picture: www.flickr.com/photos/elhamalawy

by punishing those who seek to represent them. Assad and his cronies have perpetuated a system whereby regime-critical lawyers are unable to discharge their professional duties without fear of state reprisals, at best decertified and worst disappeared.

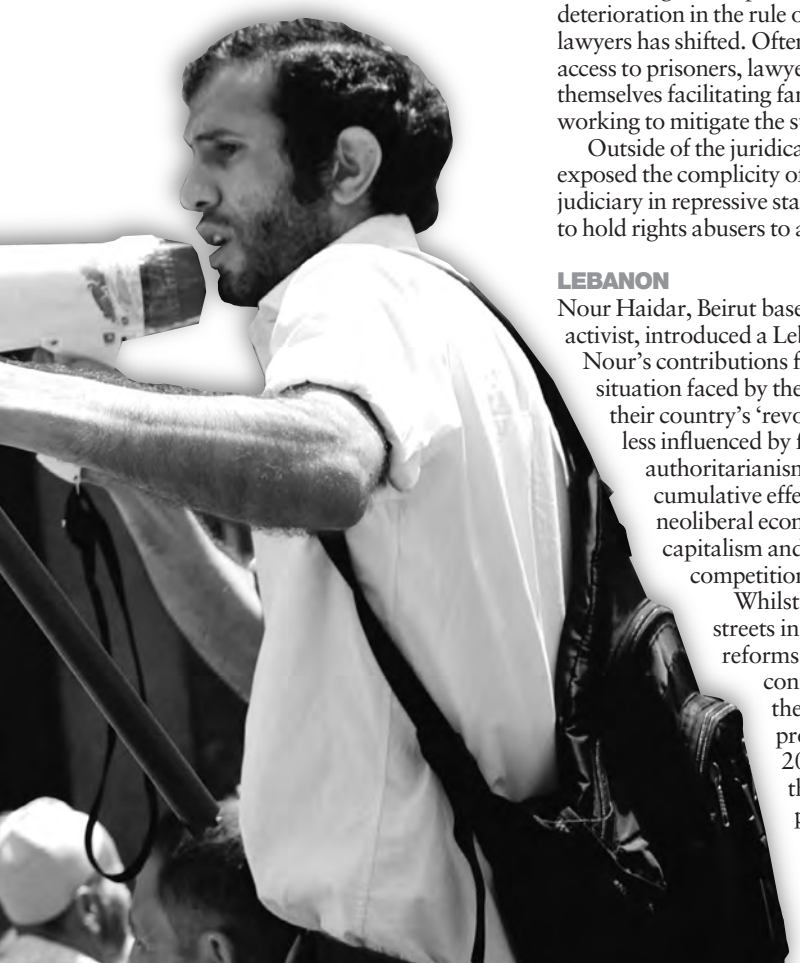
But anti-regime lawyers have not been deterred from calling for change, instead playing a vital role in forming civil organisations and advocating for the rights of demonstrators and detainees.

Lawyers began to document human rights breaches perpetrated not only by the state, but by armed militias purporting to represent the Syrian people. By documenting breaches, collating evidence, and building cases, Syrian lawyers have assisted overseas jurisdictions to prosecute those complicit in the oppression of the Syrian people.

The recent German conviction of former Syrian army general Eyad Al Gharib under the doctrine of universal jurisdiction is a case in point: thanks to evidence gathered by civil society organisations the Court was able to convict Al Gharib, who transported over 30 protestors to secret prisons to be detained and tortured, for aiding and abetting crimes against humanity.

EGYPT

Egypt too bore witness to a similar shift: in the absence of any legal platform to combat state repression and right wing economic policies, lawyers turned to human rights organising. Ahmed Ezzat, Egyptian lawyer and scholar, recalled Egypt's rich history of radical lawyering dating back to communist labour lawyer Youssef Darwish. A prominent member of the Worker's Vanguard in the 1940s and 1950s, Darwish was instrumental in informing independent unions, helping them to register and thus combatting the state tendency to unite all unions under one federation.



'In the absence of any legal platform, lawyers turned to human rights organising.'

The tradition of 'cause lawyering' continued throughout Nasser's presidency and into the Mubarak era, with the law utilised as a tool to advance working class causes, support those detained for their involvement in the 1977 bread riots, and oppose normalisation with Israel.

More recent political developments, including increased confrontations between the state and Islamists, emboldened the executive to take coercive action against independent organisations, and the Egyptian Bar Association – along with all other professional syndicates – was brought under absolute control. As in Syria, Egypt's 'cause lawyers' – those who use their platforms to confront the state's authoritarian tendencies and challenge the legal order – have nevertheless continued to play critical roles beyond strategic litigation and direct legal aid.

Against a backdrop of arbitrary arrests, catch-all legislative provisions, and a general deterioration in the rule of law, the role of lawyers has shifted. Often the only people with access to prisoners, lawyers have found themselves facilitating family visits and working to mitigate the suffering of detainees.

Outside of the juridical sphere, lawyers have exposed the complicity of the Egyptian judiciary in repressive state strategies by failing to hold rights abusers to account.

LEBANON

Nour Haidar, Beirut based solicitor and activist, introduced a Lebanese perspective. Nour's contributions focused on the unique situation faced by the Lebanese people, their country's 'revolutionary moment' less influenced by flagrant authoritarianism and more by the cumulative effect of years of a neoliberal economy based on crony capitalism and the elimination of competition.

Whilst people did take to the streets in 2011 to demand reforms to the state's confessionalist makeup, the anti-corruption protests that erupted in 2019 (also known as the October 17th protests) are – with their spontaneity and countrywide reach – more easily linked to the wave of demonstrations typically associated with Arab Spring.

As the defence of protest rights itself grew as a public issue, the Lawyers Committee for the Defence of Protestors (LCDF) mobilised to support detained demonstrators. Unlike in Syria and Egypt, the Lebanese security apparatus is not under the control of a single party.

As such, the success of crackdowns on protestors are largely dependent upon the success of inter-party negotiations. Tied up in deal brokering, the state is less capable of holding people indefinitely and detainees are typically released within 72 hours.

One of the biggest achievements of the LCDF was ensuring that lawyers could access police stations to obtain official authority to act on behalf of their clients. Faced with material successes such as these, radical lawyers must simultaneously grapple with their engagement with the state.

On the one hand, lawyers organise with grassroots organisations who refuse to engage with repressive state institutions, and on the other are dependent upon maintaining relations with the police and judiciary to secure access to clients. There is an innate contradiction in radical lawyering within a broken state structure, and we must remain aware of its limits.

Law and solidarity across the region

Speakers explored the complicity of official syndicates in the repression of civil organising. Whilst in Syria the official bar association, unwavering in its hostility to anti-Assad lawyers, is hardly distinguishable from the Ministry of the Interior, the recent election of independent candidate Melhem Khalaf as president of the Beirut Bar Association has ushered in a sense of optimism amongst lawyers across Lebanon. Khalaf's electoral success marks a significant step away from the historic political co-option of professional bodies to prevent independent organisation and has been hailed by establishment figures as the biggest blow to the ruling authority since the eruption of protests.

In keeping with his reputation, Khalaf announced on 8th June that he would endorse collective action by lawyers against government institutions, including court buildings, if the government fails to enact laws to bolster and protect the independence of the judiciary.

In Egypt, the role of the official Bar Association is more akin to that of Syria. Since 2013 the state has maintained complete control over the Egyptian Bar Association, once known as a 'citadel of freedoms' that no longer calls for the release of detained lawyers.

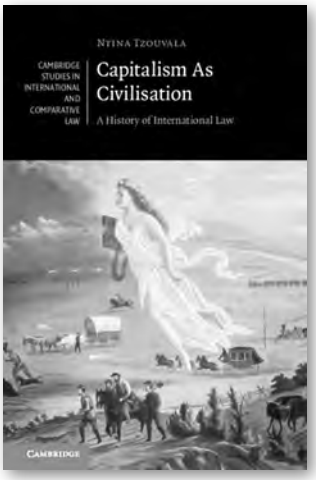
Moving forward in solidarity, speakers emphasised that we must remain critical about the sources we turn to. Thoughts turned to comrades in Palestine, and the vital importance of amplifying local voices on an international stage. As Syria falls out of favour with mainstream media priorities, participants were reminded that silence does not equal stability, and stability does not equal justice.

Reviews

Picture: ©Jess Hurd

Unpleasant arguments

Capitalism as Civilisation: A History of International Law, Ntina Tzouvala, 2020, Cambridge Studies in International and Comparative Law, Series Number 142.



In *Capitalism as Civilisation*, Ntina Tzouvala makes an impressive attempt to reconcile a view of international law as indeterminate with a Marxist approach. Deeply theoretical, yet rooted in historical moments, Tzouvala considers how the concept of civilisation as an argumentative pattern has functioned in international law and legal arguments from its emergence in the nineteenth century, through to the war on terror.

Tzouvala presents the argumentative pattern of civilisation in international law as oscillating between a pair of diametrically opposed logics. These are the 'logic of improvement' – that 'uncivilised' nations can, by adopting civilised practices, gain acceptance into the legal community – and the 'logic of biology' – that those nations are inherently inferior, via hierarchies constructed in terms of race, gender (effeminacy, hypermasculinity), or childhood.

These logics function to support the second dichotomy on which Tzouvala's argumentation is based. This is capitalism's tendency for simultaneous expansion and contraction. Expansion is both material and ideological: in pursuit of natural and human resources – across the land mass of the globe and into the deep seas; and in exporting its values and legal systems across the globe. The result of ideological expansion was that 'non-Western polities were given the option to either assimilate or perish, while both assimilation and physical destruction were seen as an irrefutable sign of their civilisational inferiority' (page 69). Contraction is material, drawing human and natural resources into the centre by maintaining a civilisational hierarchy between the centre and the peripheries, causing inequality between the global centre and the peripheries. The logic and the material reality go hand in hand: 'as the capitalist state evolved to serve the evolving needs of capitalist accumulation, so did the "logic of improvement"' (page 87).

That the supposedly unitary concept of civilisation is in fact formed by these two binaries forms the first part of Tzouvala's thesis. 'I could end my analysis there and still argue that my contribution is original enough', she says with a characteristic wit.

"Tzouvala argues that there is no historical or conceptual necessity for capitalism and liberalism to go hand in hand."

'However,' she continues, 'there is a further question that needs to be addressed: what are the political, economic, and institutional structures that make possibly the continuing presence, persuasiveness and even invisibility of this contradictory, unstable and even unpleasant argumentative pattern?' (page 40).

Through analysis of distinct historical moments, Tzouvala argues that there is no historical or conceptual necessity for capitalism and liberalism to go hand in hand, rather, both capitalism and imperialism have been justified through a wide range of ideologies. These moments are the emergence of civilisation as a central argumentative pattern of international law in the nineteenth and early twentieth centuries; the League of Nations and its Mandate System in the early twentieth century; the Southwest Africa saga in the mid twentieth century; and finally, in the occupation of Iraq and the war on terror in the twenty-first century. In all these moments, civilisation is a crucial argumentative pattern, whether overtly or covertly, whether by imperialist forces or anti-imperialist forces who become 'trapped in the contradictions of their approach'.

'Capitalism as civilisation' as a title is worth dwelling on. Tzouvala does not argue that capitalism is civilisation; rather, that the argumentative pattern of 'civilisation' in international law supports capitalist expansion and contraction, even after the standard of civilisation has been read out of international legal treaties and standards, as in the later chapters. Yet, in another sense, she argues that to be a civilised country is to be a capitalist country. To gain acceptance into the international legal community, it is ultimately necessary to become capitalist – 'adopting the legal and political institutions that had enabled capitalist accumulation in the West became a precondition for the enjoyment of equal rights and duties under international law' (page 87).

Margo Munro Kerr

Speaking through the courtroom window

A Radical Lawyer in Victorian England: WP Roberts and the Struggle for Workers' Rights
by Raymond Challinor, 2021 edition.

At a recent Materialist Lawyers Group conference, there was much stimulating discussion about the potential uses of Jacques Vergès' 'rupture strategy' in radical legal practice today. Panellists emphasised the importance of lawyers being embedded in political ecologies that connect their work in the courts to movements happening outside them. This put me in mind of English solicitor WP Roberts (1806-1871) who, in the words of his biographer Raymond Challinor (1929-2011), always 'sought to speak through the courtroom window, combining the legal struggle with the struggle in the political arena'.

Roberts is hardly an obscure figure in the annals of early British socialism. In *The Condition of the Working Class in England*, Engels gave a glowing account of the legal battles that made him a 'terror' to mine owners. EP Thompson named him as one of a commendable group of middle-class radicals who refused to make peace with the bourgeois reform settlement of 1832. Yet Challinor's biography, first published in 1990 and reprinted this year, remains little read, and the totality of Roberts' achievements therefore underappreciated.

Little is known of his early life except that he was born into the Essex middle class, boarded at Charterhouse, and qualified as a solicitor in Bath. Owing to the loss of most of his correspondence, darkness also surrounds his personal life, though we know he married twice. A first mention of him in

the local press in 1832 reveals a pugnacious and staunchly religious Tory.

By 1837, however, Roberts was a leading light in Bath's nascent Chartist movement – a class traitor. Whether this change of heart resulted from a Damascene moment (the trial of the Tolpuddle Martyrs in 1834, perhaps) or a more likely gradual process of radicalisation is unknown. But for the rest of his life he maintained an unshakeable belief in the popular capacities of the working class and dedicated his legal services to what he called 'the people's cause'.

For modest remuneration he worked tirelessly – often from dawn till midnight, Challinor notes – defending miners and other workers up and down rapidly industrialising England and Wales. In an age of rising imperial chauvinism he also defended Irish republicans, determined, as he said at the trial of the Manchester Martyrs in 1867, to resist oppression wherever he found it (although, in contrast to barrister and fellow Chartist leader Ernest Jones, anti-colonialism was not central to his politics).

It was in the furnace of events such as the Newport Uprising and the 1842 general strike, and the subsequent waves of state reaction, that Roberts forged his legal strategy. Faced with benches and juries overwhelmingly Tory and capitalist in composition, and a panoply of statute and common law that criminalised virtually all acts of resistance from below, he knew that the odds would always be stacked against his clients. Rather than accept defeat in advance, however, he approached his cases as 'an opportunity to expose the evils of existing society'.

He did so by turning proceedings into 'legal dramas' in which class struggle was played out. Communities thronged the public galleries to hear him assail the entwined class structures of the economic and judicial systems. To the exasperation of magistrates, he would line up hundreds of lay witnesses to testify about the conditions of exploitation and immiseration that lay behind the actions of their comrades accused of, in many instances, conspiracy or breach of contract. By these and other methods the legitimacy of law itself was called into question and rendered, in Challinor's words, 'inoperable or counterproductive'. And despite numerous inevitable defeats, he managed important victories against the truck system and the punishing wage-regulation regime known as 'the Bond'.

> "Knowing the odds would be stacked, Roberts saw his cases as 'an opportunity to expose the evils of existing society'."

In emphasising Roberts' role in these legal-political flashpoints, there is of course a risk of minimising the self-activity of those he represented. Politicians and the conservative press often portrayed him as the instigator of industrial strife; his supporters sometimes exaggerated his role too. Challinor is clear, however, that Roberts was articulating already brewing discontent. He also makes a broader historical argument: that modest improvements in labour law during Roberts' career were achieved 'not on the basis of the strength of the workers' [legal] case' per se but 'on the strength of workers themselves, their ability to retaliate by punishing their masters' through strikes and other actions.

Roberts, though far from self-effacing, probably agreed with this view. He believed in the rule of law as an ideal, and approached all his cases with an abiding sense of natural justice animated by his Christian faith. But he never confined the struggle to the courts. He was a consistent advocate of political methods for achieving social change. Challinor makes the claim that, as a Chartist, Roberts 'had a record of activity that no one exceeded'. Likewise with industrial action. His support for the big miners' strike in Durham and Northumberland in 1844 put him at loggerheads with the circumspect leadership of the Miners' Association. When the Association was refounded in 1863 under the aspirational leadership of ex-miner Alexander Macdonald, it renounced industrial action in pursuit of a strategy of conciliation, arbitration and lobbying. Roberts, who in Macdonald's eyes represented a bygone era of militancy, was excluded from involvement entirely, though he continued to represent workers in an individual capacity when disputes arose.

In his last two decades, Roberts was an increasingly isolated >>>

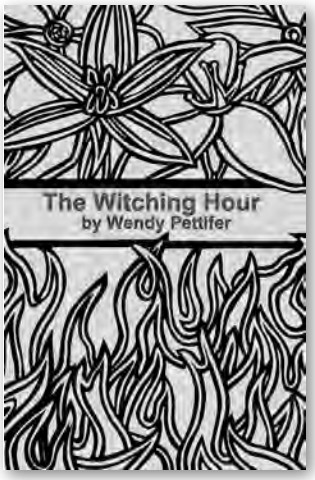
>>> figure politically. Organised Chartism had entered into irreversible decline after 1848. The mid-century expansion of the global capitalist economy had quelled discontent in the imperial core. In the few critical passages of an otherwise admiring biography, Challinor argues that Roberts failed to understand these deeper changes and remained naively optimistic that a radical groundswell was in the offing. However, this is contradicted by some of the evidence Challinor himself presents. Roberts' criticisms of Macdonald, for example, suggest that he understood exactly 'the social forces that were conspiring to marginalize him'. His clear-eyed reservations about the Trade Union Act 1871 were also taken up by the unions after his death.

Challinor, a respected Marxist historian who cut his scholarly teeth in the Socialist Review Group rather than the more eminent Communist Party Historians Group, began working on Roberts in 1966. What was conceived initially as part of a project to historically inform a strong labour movement came to fruition only two decades later, in the shadow of pit closures, Thatcherite anti-union legislation, and the wider neoliberal assault on the foundations of class politics. Perhaps Challinor's ambivalence about Roberts' later years was inflected by the changes that had occurred over this long period of researching and writing, and which are still with us. How should lawyers relate to political struggle, and trade unions to law, in these changed conditions? Of course, Roberts' life and work does not provide any simple answers to such questions. For a start, his courtroom provocations were enabled by a degree of procedural informality that no longer exists. Nor do workers need grandstanding middle class leaders. But Roberts' commitment to struggle in and outside the law might nevertheless serve as an inspiration.

Joseph Maggs

Intimate entwinements

The Witching Hour by Wendy Pettifer, 2021.



Wendy Pettifer has published a second collection of poems, *The Witching Hour*, following last year's *Love Lines*. She introduces *The Witching Hour* saying that these poems both follow and precede her earlier book, build on its strength and test its weakness. But for me there was no weakness in Love Lines and no weakness in this latest collection.

Wendy writes beautifully, with sparse polished phrasing, skewering the thought. Some poems are over 30 years old. Some are utterly contemporary, dealing with covid and Wendy's additional (and awful) experience of coping with both lockdown and with cancer treatment simultaneously. She is not sentimental, observing in 'Double Lockdown':

Nye's still gorgeous the sun is out
I'm off to the park for my
Walkabout.

She hears poetry in the names of drugs:
Oxaliplatin
Copacitabine
Fluoracil
Ironotecan

And imagines her oncologist waking up in the middle of the night, weighed down by worries but knowing how to cope:

Our lives and deaths weigh
Heavy on her heart
She makes a cuppa, listens to the
World Service
Hears of greater harm elsewhere.'

We read of family, her daughter when young:

I've got no lovers and I've got no
friends
But I've got my daughter
To the ends of the ends of the
end…

She exhausts my days, uses up my
nights
I'd like to protest
But mothers don't have rights.

We meet her grandson, Nye, first met when her daughter shows her:

Your proudly swelling stomach
The promise of another
generation
To cuddle in my 60 years wide
welcome lap.

Later, Nye enjoys the Christmas tree:

In the dusk as a granny I watched
My grandson hang a crazy angel
Leaving from her tree-top perch
To bless us all with golden wand
We danced together round our tree.

Wendy, although officially retired, has devoted the last few years of her life to representing asylum seekers in the Calais 'jungle', living there for long periods, sorting out immigration and other advice. She wrote about that extensively in Love Lines, not from her point of view, but from that of the residents, and those who eventually receive asylum here:

In my room I keep
My Law Degree from Damascus
University in a frame
To remind me that I am more than
a security guard.

Wendy's description of the Calais experience is wholly through the eyes of others. Her empathy and humanity shine out. How can most of us begin to imagine crossing the Channel in 'Small Boats'.

Small boats were meant for pleasure
Dipping and diving in summer stream
Larking about on rivers and canals
Laughter skipping cross the banks

Not inflatable dinghies with too many bodies
Rising and falling in deep Channel water
In the sweat stink of fear.

And Wendy is refreshingly, hilariously, frank about sex. Sex as a young woman, sex as a mother and sex now (if she doesn't mind my saying it) as an older woman. I don't know whether 'Sunday Morning Sex' was written as an older woman, but it feels like it:

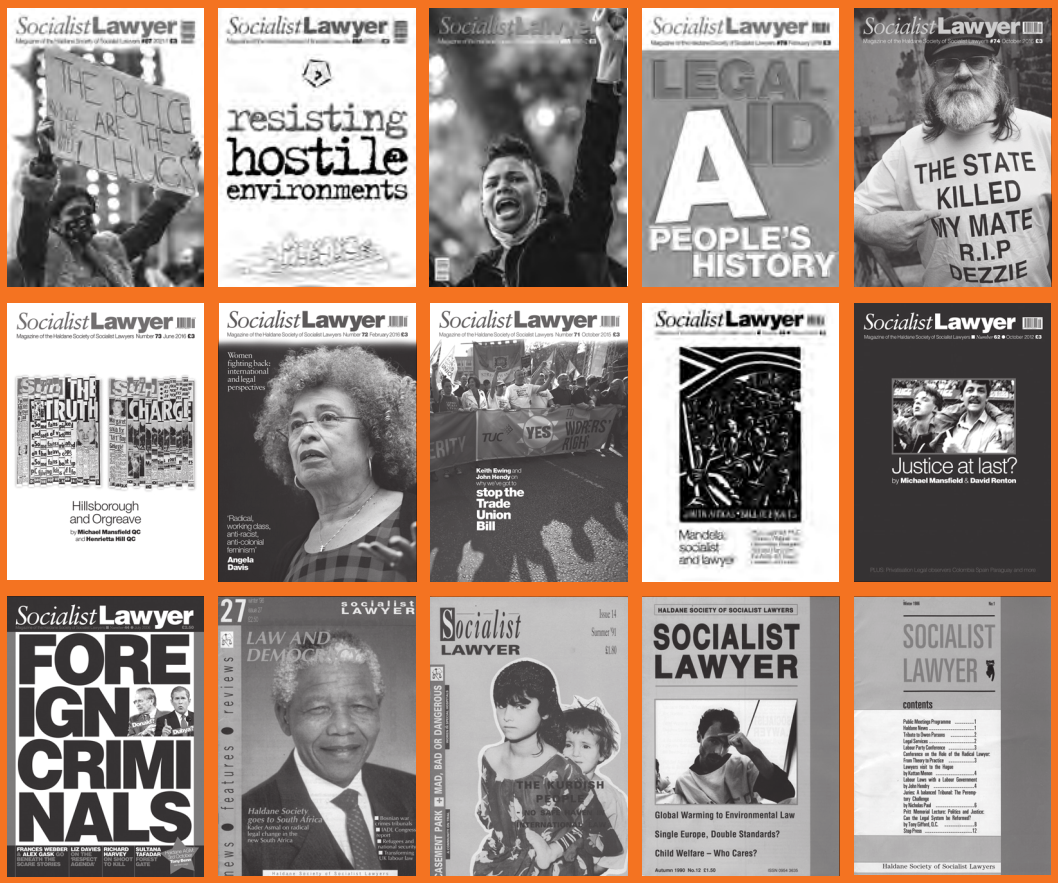
I am a wine red plum
Skin stretched tight
Ready
To burst
Open
And spill my
Succulent flesh
Soft sweet juices
Tight firm stone
All over you
Dripping through
Your sticky fingers.

Politics, family, places (Hackney, Cairo, Kashmir, Calais, Lincolnshire) and sex are all entwined. As they should be for any activist, socialist and feminist. She is filled with the warmth of human love and solidarity. If you are paying attention, you can work out her day job (before she retired) as well:

When I'm working in court surrounded by men
I can't wait to be home
Snuggled up in the den.

I'm hoping for a third collection and to persuade her to write more about lawyering. Enjoy this book, it will make you smile and cry simultaneously.
Liz Davies

Can you contribute to this magazine? Do you have an idea for a feature or article, long or short? Perhaps a news piece, a casenote, a review of a book, TV series, film, album or exhibition? Get in touch. Email us at *socialistlawyer@haldane.org*



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