Socialist Lawyer

Magazine of the Haldane Society of Socialist Lawyers **#78** February 2018 **£3**

LEGAL AID

PEOPLE'S HISTORY

Haldane Society of Socialist Lawyers

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www.haldane.org

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

Socialist Lawyer

Editor: Nick Bano
Assistant editors: Russell Fraser & Tim Potter
Design: Smith+Bell (info@smithplusbell.com)
Print: Rap Spiderweb (www.rapspiderweb.co.uk)
Online distributor: Pluto Journals (www.plutojournals.com)

MIX Paper from responsible sources FSC® C021423

ISSN:
Print 0954-3635
Online 2055-5369

Picture: Jess Hurd / reportdigital.co.uk

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Back-street lawyers

The late Sir Henry Brooke wrote extensively about the history of legal aid. His detailed and thoroughly researched blog was incorporated into the Bach Review's final report, and (along with Jon Robins and Steve Hynes' *The Justice Gap*) is probably the most authoritative work on the subject.

Useful as Brooke's work is, it would be a terrible shame if it were to become the accepted wisdom. It focuses too heavily on the Parliamentary and legislative history of legal aid. Government policy was not the cause of legal aid – it simply regularised and facilitated a system that had already been created by social movements.

This edition of *Socialist Lawyer* aims to put that social history of legal aid on record. Before bills were proposed and statutes drafted, communities had taken radical steps to create systems of self-representation and community protection. Lawyers had set up in shopfronts and in squatted buildings as an act of resistance against racist, sexist and classist bosses, landlords and state agencies long before MPs took an interest.

Alex Hogg, Azaad Sadiq, Joe Latimer and Oliver Subhedar have carried out original research into the social history of law centres for this edition. They have spoken to the pioneers of community legal services and, across four articles, they set out some of the early history. Rebecca Omonira-Oyekanmi gives a moving and troubling account of the work that a law centre in Birmingham carries out against the odds. North East London Migrants' Action share their experience of peer-to-peer advice, which is both a precursor to legal aid and an important parallel structure to the current 'professional' legal aid scheme. That piece is complimented by an article in which the lawyers who represented some of NELMA's members successfully defeated a particularly nasty government policy in the High Court last year. In addition, Rona Epstein's article explains the harm inflicted by the government's despicable practice of immigration detention.

Legal aid was created – and continues to be reproduced – by communities, not by government. It is the staff and volunteers, the clients, the members of community who pass on advice and knowledge, and – as Greater Manchester Law Centre revealed in the last edition of this magazine – the shopkeeper who refuses to charge the centre for milk who are responsible for access to justice. They need to be credited.

I hope that this is the first in a series of contributions to the 'people's history of legal aid'. I know that many readers played significant roles in establishing the system of free advice and representation that has been so successful and important over the past 40 years, and I hope that future editions *Socialist Lawyer* will be a platform for sharing that history. Not only should we record and celebrate the social history but – as access to justice has fallen into disrepair and squalor after so many years of cuts – we also need to learn how to start building again.

Nick Bano, editor,
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Welfare for social welfare professionals: encouraging the next generation

In 2017 the Law Society's head of justice, Richard Millar, said: 'Behind [the] figures are hundreds of thousands of people who can no longer obtain legal aid for matters such as family break up, a range of housing problems, and challenges to welfare benefits assessments. This data also calls attention to the fact that increasingly it is no longer economically viable for solicitors to do this work.'

The figures that Miller refers to depict the dramatic slump in the number of legal aid providers. In the last five years the number has fallen 20 per cent from 2,991 to 2,393. What is behind the fall, who does it impact, how does it impact them and what can be done about it?

There is no need for a PhD thesis to understand the cause of the decimation of the legal aid sector. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) removed public funding for most housing, welfare, employment and immigration law cases and also dealt a blow to family law legal aid. Cuts to publicly funded legal aid work have left those areas of law reeling. As solicitors struggle to make a sustainable living in legal aid work, many lawyers have abandoned it for more secure areas of law. The net result of this is a lack of recourse to justice for families suffering break up, young people with housing difficulties, disabled people who have had to leave work or asylum seekers fleeing persecution. An unjust system has been created where if one cannot afford to access their legal right to justice they either go without or have to represent themselves in court.

The Greater Manchester Law Centre does a great job. See **www.gmlaw.org.uk**

Perhaps a less often discussed topic when it comes to legal aid is the impact of the cuts on new professionals. Legal aid is not as desirable as it once was. Of a survey of 1,000 students at the University of Law 68 per cent replied that publicly funded work was too stressful and 54 per cent would be deterred by that. The stress is caused in part by the dilemma facing aspiring legal aid lawyers on completing their academic and vocational studies. Many complete their education without a secure training contract or pupillage lined up. Unlike their corporate colleagues who find it easier to gain paralegal employment in commercial law firms, young legal aid professionals have fewer options available to them. Those lucky enough to get paralegal or legal assistant jobs in legal aid may have to supplement their limited salaries with work elsewhere. Those who cannot gain such work may have to go into a commercial firm while doing pro bono work. Legal aid has become an unviable option for new professionals without other financial support.

A consequence of the above is decreasing diversity and social mobility in the legal aid sector. The income of early career legal aid professionals may need to be supplemented by previous earnings or family financial support. A Young Legal Aid Lawyers 2013 report, *One Step Forward, Two Steps Back,* found that 'high levels of debt combined with low salaries make legal aid work unsustainable for those from a lower socio-economic background'. Only those who are able to afford the costs of such a career are able to enter it.

There is also a mental health element to the difficulties facing young legal aid professionals. Perhaps they are struggling to support themselves financially, relying on their parents or finding themselves unable to establish their desired career. Low self-worth or low self-esteem may cause or contribute to mental ill-health. This may be exacerbated by a lack of facilities supporting university leavers' mental health.

While it is important to understand the problems that the legal aid industry faces it is also important to highlight the solutions and – importantly – the communities that are fighting legal aid cuts.

In 2014 due to the cuts, inner city Manchester, Salford and Old Trafford had no law centres at all. The Greater Manchester Law Centre (GMLC) was established by the Greater Mancunian community in direct response to legal aid cuts. The centre has

December

14: The High Court ruled that a policy operated by the Home Office (with help from local authorities and homelessness charities) to detain and support rough sleeping migrants was unlawful. Haldane members Natalie Csengeri, Shanthi Sivakumaran, Stephen Knight and Paul Heron were instrumental in supporting the migrants and bringing the legal challenge.

January

21: The Crown Prosecution Service announced that it would not charge a police officer over the death of Rashan Charles (a young black man who died after a police pursuit in Dalston, east London). Charles' arrest in July 2017 was captured on CCTV, and led to protests.

47 out of **58** nominees for lifetime judgeships for US appeal, district and supreme courts by President Trump in his first year of office are **men** – five are non-white.

27: Marie Dean began a hunger strike in protest against her detention in an all-male prison. Dean – a transgender woman – remains at HMP Preston at the time of publication. Meanwhile Tara Hudson is suing the Ministry of Justice for her detention at an all-male prison in 2015, where she remained until a national outcry led to her transfer.

grown since opening in 2016 and now offers invaluable legal services in housing and benefits law. Alongside offering legal advice it fights to restore legal aid as an integral part of the welfare state and to inspire and 'encourage the next generation of conscientious lawyers'. Please do visit the GMLC's website and social media pages for more information on the fantastic work that it does.

There have also been movements to address the challenges facing legal aid professionals. The GMLC employs a duty solicitor and is also offering a training contract through the Justice First Fellowship, which partners with law centres across the country to provide training contracts. It also works with chambers and the Bar Pro Bono Unit to provide pupillages for aspiring social welfare barristers. By forming alliances with solicitors' firms, law centres, chambers and not-for-profit organisations more opportunities can be created for those seeking careers in legal aid.

It is vital that legal services are provided for those who cannot afford them. Pro bono work such as that done by the GMLC and law centres across the country needs recognition and encouragement. In areas lacking such services there is hope and the GMLC proves this. However at the same time there must be engagement in a wider debate on the impact of legal aid cuts and pressure to reverse them. This is the way to facilitate long-term systemic change.

Haseeb Khan (campaign volunteer at Greater Manchester Law Centre)

"Beautiful weather all over our great country, a perfect day for all women to march." Do you think President Trump missed the point of the Women's March?

Young Legal Aid Lawyers

This regular column is written by YLAL members. To join or support their work, please visit their website **www.younglegalaidlawyers.org**

Profession in crisis: we need collective action

At present it feels like we are a profession in crisis. The criminal legal aid sector is on the verge of collective action following years of cuts and pressure to do far more for far less. The failure of the government to address problems with legal aid means testing has led to claimants living below the poverty line finding themselves ineligible for legal aid. Legal aid providers struggle to continue to deliver services in many areas of law and the third sector continues to struggle to meet otherwise unmet needs as funding cuts continue to bite.

It was in this context then that on 14th March 2018 YLAL published our new report, *Social mobility in a time of austerity*, which found that this climate has left young legal aid lawyers dealing with the stresses and strains of a sector struggling to recruit and retain a new generation of lawyers.

Over four months, to December 2016, YLAL received 200 responses to our member survey into their experience of social mobility in the legal aid sector. The results made for unsettling reading. YLAL made three broad findings:

Picture: Jess Hurd / reportdigital.co.uk

A 'Save Legal Aid' protest march back in 2014. Get the new placards out!

Debt combined with low salaries is a barrier to the profession

Attendees at our nationwide launch events told us that the course fees are leading to people, particularly those from a working class background, deciding not to pursue a career in legal aid. These comments are supported by our report's findings: only 41 per cent of barristers reported attending a comprehensive school with 37 per cent attending fee paying establishments; 64 per cent of solicitors went to a comprehensive and 17 per cent to fee-paying schools. With only 6.5 per cent of the population attending fee paying schools it seems that this constituency continues to be overrepresented in the legal aid sector.

With thousands of pounds of debt behind them, members expressed concern that the low salaries legal aid work offers would be insufficient to service those debts and keep their heads above water. Sadly they may be right. Our figures show that students were paying on average £11,000 for the LPC, £16,000 for the BPTC and £8,345 for the GDL. All on top of undergraduate fees which stand at £9,000 per year. 72 per cent of our respondents said their debts stood at over £15,000, 26.5 per cent said they were over £35,000. >>>

Young Legal Aid Lawyers

>>> We found that 30 per cent of respondents were earning £20,000 or less and 68 per cent were earning £30,000 or less. Is it any wonder then that people are concerned about undertaking a career in the sector?

Unpaid work experience is a barrier to the profession

Additionally, members described a culture where work experience is a prerequisite for jobs in legal aid, the prevailing feeling was that much of this work experience was likely to be unpaid. Seventy-five per cent of respondents told us they had undertaken unpaid work experience. This was seen to be an additional barrier to entry to the profession due to the fact that the majority of opportunities were within London and, for most people, working without pay was completely unsustainable. One respondent described it best: "I cannot afford to continue to do unpaid work experience, and cannot afford to pay for training courses so I have decided not to pursue a legal career".

Stress, lack of support and juggling legal aid work with other responsibilities are affecting retention in the profession

Twenty-one per cent of respondents told us that stress was the biggest challenge they faced whilst working in the sector. Respondents reported many causes for the stress they felt, including a lack of support, feeling undervalued by employers, politicians and society as a whole, a lack of psychological support, heavy caseloads, concern for their future, constant policy changes, lack of opportunity to progress, financial concerns and difficulty juggling demands of the sector with other commitments in their lives.

Recommendations

Based on the findings and research within our report we made a number of recommendations. Amongst them we ask that the SRA and BSB increase the minimum salary for trainees and pupils in line with the Real Living Wage; that legal aid employers consider paying all employees a Real Living Wage; that the SRA reconsiders their decision not to include any civil legal aid areas on the Solicitors Qualifying Examination (SQE) syllabus and releases detail regarding the cost of the SQE as soon as possible; that employers recognise the psychological pressure young lawyers are under and offer real support in a non-judgemental environment; that employers implement our Work Experience Best Practice Charter and that the LASPO review is detailed, effective and consults with the relevant bodies.

There is still hope as our report shows. Despite the difficulties our respondents continue to show a desire to fight against injustice. We were told they work as legal aid lawyers because "the most underrepresented in society [are] the ones who need representation the most" and "The justice system should be accessible to everyone, not just those who can afford it." Despite the prevailing attitude towards the profession at present, there is increasing need for legal aid lawyers. Recruitment to the law should not be based upon financial support or family back ground but on talent, passion and dedication.

We ask you all to read and share the report and, where possible, help to support or implement the recommendations. Help us to fight to improve access to justice and to ensure that the next generation of legal aid lawyers is more diverse, more representative and better protected than those of today.

You can read our full report here: *www.younglegalaidlawyers.org/socialmobilityreport2018*

And follow *@YLALawyers* on Twitter to keep up to date with our work.

Siobhan Taylor-Ward

Picture: Jess Hurd / reportdigital.co.uk

Educators' strike a solid success

In February and March members of the University and College Union (UCU) took part in 14 days of strike action at more than 60 universities in a bitter dispute about changes to the Universities Superannuation Scheme (USS). The proposals would have resulted in drastic pension cuts for education workers, with a typical lecturer receiving almost £10,000 less per year during retirement.

This was the largest ever strike action in UK higher education and it received very high levels of support. The ballot easily met the outrageously high threshold for a lawful strike: turnout was 58 per cent, with 88 per cent backing strike action.

In addition to the official strike there were student occupations and sit-ins across campuses and almost 700 external examiners informed UCU that they had

February

1: After the collapse of a number of high-profile trials the disclosure crisis in the criminal justice system came to public attention. The PCS union (representing prosecution staff) blamed the crisis on 'deep cuts which have led to a chronic lack of resources and significant additional work placed upon lawyers and the police'.

"Listen, very stupid BBC women, simply because you believe something, doesn't make it the truth." Rod Liddle, *The Spectator* – why women shouldn't get equal pay...

resigned from their posts.

As the strike wore on the universities themselves began to break ranks and called for a deal. Some university chiefs (such as the vice-chancellor of Newcastle University) positively supported the strike action and even Tory universities minister Sam Gyimah didn't condemn the strike, but instead called on the parties to reach a deal.

The UCU's negotiating partner was Universities UK, the representative organisation of university management. UUK was initially deeply intransigent in the face of the industrial action. It cited a severe deficit in the USS scheme and claimed that there was no alternative. However, when it became clear that UCU members would not accept a deal proposed by UUK (workers organised online and physical demonstrations against UCU's acceptance of the deal), UUK proposed a 'joint expert panel' to assess the valuation process and assumptions on which its pension cuts were based. UCU is currently balloting on the second proposal.

During one of the strike days literature academic Dr Priyamvada Gopal (@PriyamvadaGopal) tweeted: "Special shoutout to the Cambridge LRB eminence who crossed the picket line to go lecture on 'Gandhi and Civil Disobedience'. Runner up is the Law lecturer who sallied forth to teach labour law." (Presumably the runner up was not a Haldane member).

With the legal profession once again on the brink of industrial action we can draw a great deal of encouragement from the success of UCU comrades, as well as inspiration from their exemplary solidarity and strength of their resolve.

'This is Europe?' – the forgotten crisis

In January, Karamel in Wood Green hosted a film screening and seminar by the Haldane Society. Theodoris Zeis, a Greek asylum and immigration lawyer, shared his experience of working at a grassroots level in Greece, and Christina Orsini from social enterprise Threadable presented Inadmissible, a documentary that looks at the daily life of refugees on Lesbos.

The filmmakers had been working closely with lawyers in Greece (particularly the Lesbos Legal Centre) since 2016 and Inadmissible gives a compelling insight of the lives of those trapped on the island.

The film exposes the physical conditions of the camps alongside the emotional torment of being stuck in Greece, having survived and fled such dreadful situations overseas. The sheer horror of the wait on Lesvos – which includes arbitrary and racist detention, endless waiting, and physical squalor – is compellingly illustrated.

The panel discussion included valuable contributions from the floor. It was clear that the audience – which included people who do legal work for migrants, and people who have gone to Greece to volunteer with those detained there – had not forgotten the plight of Europe's recent arrivals.

Join the Colombian Caravana

The Colombian Caravana is a UK-based charity that works to promote access to justice and uphold the rule of law in Colombia. We work together with Colombian human rights lawyers and human rights defenders to ensure respect for human rights.

In 2008, 2012, 2014 and 2016 international legal delegations travelled to Colombia to better understand the situation of lawyers and judges in Colombia and to advocate the protection of human rights defenders.

In August 2018 we will once again be travelling to Colombia to continue that important work. We welcome applications from lawyers who would like to be part of the 2018 delegation: the application process will appear on our website soon.

The Colombian Caravana believes that without lawyers and legal professionals there can be no justice. If lawyers are compromised by infringements of their right to practise independently and pursue the interests of their clients, then justice itself is also >>>

15: A costs ruling put the survival of Ukip at stake. Three Labour MPs had sued Ukip for defamation, and the High Court found that Ukip had deliberately refused to settle before the general election and ordered the cash-strapped party to pay a significant part of the MPs' legal costs.

14.9% of practising QCs are women

7.1% of practising QCs are from black and minority ethnic backgrounds

20: The Supreme Court heard arguments in *Pimlico Plumbers v Smith*. The case concerns important aspects of workers' rights in the 'gig economy'. Pimlico Plumbers boss Charlie Mullins arrived at court with two Bentleys before watching his company's lawyers argue that it had been lawful to refuse to allow a plumber (who was supposedly self-employed) to work fewer days after he suffered a heart attack.

97 children have been killed and 126 injured in mass shootings in American schools since 1989.

$4.1m How much the National Rifle Association spent on lobbying politicians in 2017 to make it easier to carry weapons.

Join the Colombian Caravana

>>> compromised. The work of Colombian lawyers, particularly human rights lawyers, judges, other legal professionals and human rights defenders, ensures access to justice. However, for doing this work, people in Colombia are intimidated, threatened and even assassinated.

The Caravana has built an international legal network to highlight and tackle the issues faced by lawyers, judges, other legal professionals and human rights defenders. By exposing and recoding these issues the Caravana seeks to contribute to positive and lasting change in the lives and work of these lawyers and other professionals. In doing this we aim to improve access to justice in Colombia, a country where the violation of human rights is a systematic problem.

In March 2018 Rommel Durán Castellanos visited London, Amsterdam and Dublin to speak out on the continued violence that people in Colombia face despite the peace process in his country. Rommel is a remarkable lawyer: president of the Corporación Equipo Jurídico Pueblos (The Peoples' Legal Team), has twice been imprisoned for his work. Last year his brother was assassinated merely for his association with Rommel. The Colombian Caravana is dedicated to showing solidarity to Rommel and those who – like him – carry out vital work furthering access to justice despite the threats to their safety. Rommel said:

"When I decided to be a human rights lawyer, I had a romantic idea of it. I didn't imagine that I wouldn't be able to stop on the corner for a coffee without fear of attack. With high levels of inequality, the restrictions to protest we have seen recently, and the escalation of violence that human rights defenders and community leaders currently face, international awareness and solidarity can help to protect us. The survival of social movements depends on the visibility of our struggle for justice. We do not want to be martyrs. We want to continue our work as there is so much more still to be done."

Members of the group first visited Colombia in 2008 at the invitation of the Association of Colombian Human Rights Lawyers (Asociación Colombiana de Abogados Defensores de Derechos Humanos, ACADEHUM). ACADEHUM had issued a call for an international delegation of lawyers to visit several regions of the country to meet lawyers at risk and victims who they represent.

Reports from the 2008 delegation and the delegations that have taken place since then can be found on our website – http://www.colombiancaravana.org.uk/. The reports that we have published highlight the threats faced by human rights defenders and the obstacles to access to justice, and form an important body of evidence.

Please consider becoming a member of the Colombian Caravana and help to work towards justice and peace throughout the country. The skills and expertise of lawyers will help the country to navigate this critical time in its history.

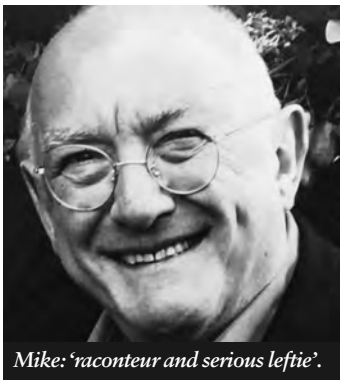
Remembering Michael Seifert

There was standing room only in London's Conway Hall on 1st March as hundreds braved the arctic weather conditions to remember solicitor Mike Seifert, who died last July at the age of 74.

We were there to celebrate the achievements of this veteran socialist lawyer rather than mourn his passing. For his tireless representation of the National Union of Mineworkers during the 1984/85 miners' strike, of ANC members in exile, of the print workers in their disputes over relocation to Wapping, of his support for Palestine and Cuba.

We were reminded that he was on the first Aldermaston march in 1958 at the tender age of 16.

Letters were read from those who were unable to attend due to the bad weather, such as Arthur Scargill, Sheila Rowbotham and Michael Mansfield QC.



Mike: 'raconteur and serious leftie'.

Mike fought for a vision of a better world, for socialism, with tenacity and intelligence, at times working round the clock, but always with a joke to hand and usually a glass or two of good red wine. One-time chair of the Haldane Society and an honorary vice-president, Mike was a *bon viveur* and raconteur as well as a serious leftie. Stories abounded of his extensive knowledge of the dramatic world, of his dinner parties.

Tributes were interspersed with wonderful music: from the Cuban jazz musician Omar Puente, from Mike's nephew Ben singing *Shenandoah*, from the London African Gospel Choir (who reminded us, *acapella*, that revolution is possible).

Jeremy Corbyn mingled with guests for drinks afterwards as we ignored the storm outside and talked about how we can gather forces and elect a Labour government to put into practice the ideas that Mike spent his life fighting for.

In the words of his favourite song *Ballad of Joe Hill* we know "what [copper bosses] failed to kill went on to organise". Let's put Mike's motto into practice, comrades.

Wendy Pettifer

February

21: More than 100 indefinitely detained women began a hunger strike at Yarl's Wood Immigration Removal Centre, protesting against the indefinite detention of vulnerable people coming to the UK. Scandalously, the Home Office threatened the women (who are striking even though many of them suffer from physical and mental health problems) with swifter deportation in retribution for their action.

"The fault originates with Blair and his liar Alastair Campbell. Convinced they were doing God's work, they cared nothing for the truth." *The Sun,* on who is to blame for the Iraq war.

March

6: David Gauke (Secretary of State for Justice) announced that the long-awaited review into the effects of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 would probably not be finished before the previously announced deadline of summer 2018.

175 The number of newspapers owned by Rupert Murdoch, including *The Sun*, around the world in 2003, all of which joined in calls by US Republicans to force Tony Blair to accelerate British involvement in the Iraq war.

Have the 'rivers of crime and distress' served their time?

Andrew Neilson, director of campaigns for the Howard League for Penal Reform, started this Haldane lecture in March by describing our prisons as overcrowded "houses of human misery".

Of those entering the system, he said, 27 per cent will have been in care, 33 per cent will have experienced homelessness and 75 per cent will suffer two or more mental illnesses. With frontline staff numbers having been cut by 40 per cent, these vulnerable prisoners are locked in their cells 24 hours a day, preventing purposeful activity, rehabilitative work and family visits.

Fuelled by drugs, boredom and frustration, assaults and self-injury are at their highest levels since records began. In the last year, there were 42,837 incidents of self-injury and 28,165 assaults in the system, and 119 people took their own lives.

The result of throwing vulnerable people into these "rivers of crime and distress", said Andrew, is that they are dragged further into crime – two thirds of those on a short prison sentence go on to commit further crimes on release.

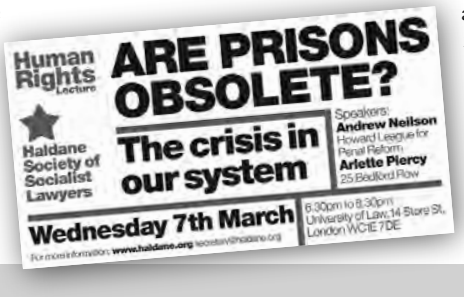
Arlette Piercy, a criminal defence barrister at 25 Bedford Row, played mobile phone footage of recent prison disturbances, which depicted life in custody as drug-ridden, lawless and dangerous. Young Offender Institutions, she said, are no better. Feltham YOI is "a warzone", in which one of her 16-year-old clients is too terrified to leave his cell.

If we want rehabilitation, then prison is not the solution.

Mark*, a former client of Arlette's, explained that corruption in prison is rife, with officers smuggling in phones and drugs in parcels of socks. Selling socks to 2,000 prisoners for up to £2,500 each, he said, "the screws are making a killing".

Henry*, another former client, told us that in prison, the vulnerable boys soon catch up with the hardened ones. It's not the drugs or the 14-hour lockdown, but incarceration itself – it's an insensitive system, in which one size is meant to fit all.

Arlette described the conditions of a prisoner with complex mental health needs in HMP Liverpool: he lived for weeks in a dark, damp cell with nothing but a bed, exposed wires, rats and cockroaches. It was in that same prison that 35-year-old Anthony Paine took his life in February. Arlette showed the audience a video of his mother describing a letter he had written her just a few weeks before his death. Anthony, who had a long history of self-harm, told her that he wasn't taking his medication or eating and that no one was doing anything to help him. At the time of his death, he had just two weeks left to serve.



The root cause of this crisis, said Andrew, is that we can't decide what we want prison to do. The public wants it to both punish and rehabilitate, which are contradictory goals. If we want rehabilitation, then prison is not the solution; the answer is in funded and functioning welfare, health and probation services.

Arlette considered whether there were any grounds for hope and looked to the "mass movement of young people developing on the back of the last general election, Brexit and Grenfell" as the key to change.

She also said that the issue of sentences of Imprisonment for Public Protection ("IPPs") is one we can win. IPPs were ruled unlawful and abolished in 2012, but 3,299 prisoners remain in custody under them. Arlette urged the audience to sign the online petition seeking their abolition, which has over 37,000 signatures, and highlighted a national demonstration against IPPs on 23rd May. She also asked the audience to volunteer a few times a year to represent IPP prisoners in their parole hearings. If 1,000 lawyers did three parole hearings a year, she said, we could break IPPs one hearing at a time.

If you are interested in representing IPP prisoners *pro bono*, email Arlette at *apiercy@25bedfordrow.com*. You do not need to have rights of audience, but advocacy training would be beneficial.

Catherine Rose

*Names have been changed to protect the identities of those involved.

7: Two of the leaders of far-right group 'Britain First' – Jayda Fransen and Paul Golding – were jailed for a number of hate crimes against Muslims. Both were convicted of religiously aggravated harassment. They were sentenced to 36 weeks and 18 weeks respectively.

15: The Court of Appeal overturned a decision of the High Court that an element of the government's 'benefits cap' unlawfully discriminated against lone parents with children under two.

"We do not believe that reopening this costly and time-consuming inquiry is the right way forward." Culture secretary Matt Hancock on cancelling Leveson two

19: The six-week trial of 15 people, arrested for an action against the deportation of LGBT migrants on a charter flight, began at Chelmsford Crown Court. The first day saw a lively solidarity demonstration outside court, and calls to drop the charges were echoed by a number of MPs.

Solidarity with the Kurds and all our colleagues in Turkey!

Protesters against Turkey's invasion of Afrin

The Haldane Society, through its membership of the European Lawyers for Democracy and Human Rights (ELDH), was a proud sponsor of and participant in the Permanent Peoples' Tribunal (PPT) on Turkey and the Kurds, held on 15th-16th March 2018 at the Bourse de Travail in Paris. This was a session on alleged violations of international law and international humanitarian law by the Turkish Republic and its officials in their relations with the Kurdish people and Kurdish organisations.

The following organisations initiated the proposal to hold this session of the PPT on Turkey and the Kurds: the International Association of Democratic Lawyers (IADL) of which Haldane is a founder member, the ELDH, MAF-DAD (based in Germany: these are the Kurdish words for law and justice), the Association for Democracy and International Law, and the Kurdish Institute of Brussels. Haldane Vice-President Helena Kennedy QC was one of the Patrons of the Session.

What is the PPT? The Permanent Peoples' Tribunal was established in Bologna in 1979 as a direct continuation of the Russell Tribunals on Vietnam (1966-67) and Latin America (1973-76).

"Tribunals of opinion are organised in situations where no official international judicial body has jurisdiction over such violations or where such bodies for some reason are not competent in the specific case, where the national judicial bodies do not offer (sufficient) guarantees of independence and/or impartiality, and where impunity is for all these reasons, and of course if the allegations of violations are found to be proven, a real risk."

> "The session was attended by hundreds of participants and observers. Many witnesses gave evidence as victims and eye-witnesses of Turkish violations."

With judges including eminent jurists and persons of high moral authority, this session clarified little known or even deliberately ignored facts, with a view to spreading this information to the media, to the general public and the international political community, opening the way to broad awareness and concrete measures.

This session of the PPT was particularly timely, given the latest evidence of Turkey's use of ISIS militants – this time – in its invasion of Northern Syria, the recent condemnation expressed by the European Parliament over the increasingly authoritarian crackdown on opposition politicians and peaceful protestors, including those speaking out against the Turkish invasion of Afrin, and the staggering decline in media freedoms – as outlined in the European Parliament's latest briefing.

The session was attended by hundreds of participants and observers. Our Belgian colleague Jan Fermon, who is also General Secretary of IADL, acted as Prosecutor. The first witness was Haldane's Joint International Secretary and ELDH President Bill Bowring, who gave expert evidence in relation to the right in international law to self-determination of the Kurdish people, and its violation by Turkey. Many other witnesses gave evidence as victims and eye-witnesses of Turkish violations. Haldane Executive members Carlos Orjuela and Debra Stanislawski also participated. The PPT's judgment will be delivered in Brussels.

On Saturday 17th March the ELDH Executive met in Paris. Haldane was represented by Bill Bowring, Carlos Orjuela and Debra Stanislawski. Round the table there were representatives of 11 ELDH member associations, from Belgium, Bulgaria, France, Germany, Italy, Russia, Serbia, Switzerland, Turkey, the UK and Ukraine. With a decision to admit a member in Sweden, ELDH now

March

21: After a number of deeply troubling rulings in favour of police officers, Phillippa Kaufmann QC (counsel for the women who were spied upon by the police) directly told the chair of the public inquiry into undercover policing (Mitting J) that he is "the usual white upper middle class elderly gentleman whose life experiences are a million miles away from those who were spied upon". She called for a panel with more direct experience and understanding of the issues that the women faced. Kaufmann and her legal team – together with core participants and supporters in the public gallery – then withdrew from the hearing.

Green Party peer Jenny Jones on the 'Domestic Extremist Day' protest outside New Scotland Yard in February. The protest was part of the campaign against state spying and the disruption of political organisations by undercover police.

Pictures: Jess Hurd / reportdigital.co.uk

were on the 20,000-strong March against Racism in London in March (UN Anti Racism Day), organised by Stand up to Racism.

has members in 21 European countries.

Marthe Corpet, from the International Department of the French trade union confederation the CGT, who spoke at the Workers' Rights conference in London in November 2017, outlined the developments in the labour movement in France, and growing strike action and other resistance to the policies of Macron.

Ceren Uysal of our Turkish sister organisation ÇHD presented the dire situation in Turkey. 20 ÇHD members and two ÖHD members are in prison. They are detained in seven different prisons. ÇHD is organising visits. The situation is getting worse every day. Our comrade ÇHD President Selçuk Kozağaçlı is in isolation in Silivri. ELDH General Secretary Thomas Schmidt has applied for a permission to visit Selçuk. The date of Selçuk's trial is not yet known but before it starts ELDH will try to organise a conference in Turkey. We will also try to identify cases (perhaps on pretrial detention) which have prospects of success at the ECtHR, and also cases in which we can apply for interim measures. There are likely to be the following forthcoming trial observation missions:

- Academics for peace trials (continuation, 4th – 6th April 2018), 210 cases.
- Ramazan Demir trials (10th May 2018).
- ÇHD lawyers trial (23rd May 2018).

Bill Bowring has been invited to speak at a workshop on academic freedom as a human right in Ankara on 28th-29th April 2018. He has been asked in particular to focus on the worsening situation for academic freedom in Russia, and on the ongoing strike of higher education staff in the UK. Bill was on the picket line at Birkbeck for the first 14 days of the strike.

Carlos Orjuela presented a report on the Lesbos legal centre and trial observation. The mass trial against refugees is starting. It was agreed that attempts should be made to see whether it would be possible to organise a side event at UNODC in Vienna regarding the criminalisation of refugees and the refugee solidarity movement. Since ELDH is not a ECOSOC registered organisation we will try to find another sympathetic organisation which can make the application for us. Carlos is working actively on this.

An ELDH Conference on Law and Gender will take place in the next period. Annina Mullis (Switzerland), Barbara Spinelli (Italy), Ceren Uysal (Turkey), and Elena Vasquez (Spain) have offered to prepare the event. A Skype meeting will be organised shortly.

It is anticipated that the next meeting of the ELDH Executive will will be on 27rd October 2018, in Düsseldorf – the German "capital of cool". Please contact Bill Bowring if you are interested: international@haldane.org

April

1: A new system of fees for criminal advocates came into effect, effectively imposing a further cut to legal aid. Criminal lawyers (supported by solicitors, the Criminal Bar Association and the Bar Council) organised a collective refusal to accept work under the new rates and plan to take further action against cuts.

21: Lawyers in France voted for a 24-hour strike and protest actions against reforms to the justice system, which many see as having a damaging impact on defendants' rights.

28: In a judicial review against the Parole Board the High Court quashed a decision to release serial rapist John Radford (John Worboys) after serving 10 years of an indeterminate prison sentence.

30: Sixteen Palestinians are killed by Israeli military as 30,000 people march on the border between the Gaza Strip and Israel, marking 70 years of Palestinian dispossession by Israel. The dead include a farmer shelled by a tank as he worked on his land and 1,100 protesters were injured.


THE TRUTH WILL
THE PEOPLE'S PU
FIRST HAND ACCOUNTS, FACTS
GRENFELL TOWER F
PALESTINE
PALESTINE

From Hebron to Grenfell Tower

In January 2018, Palestinian firefighters from Hebron City visited Grenfell in solidarity. They had been training for two weeks in Scotland with the support of the Fire Brigades Union. Justice for Grenfell campaigner Judy Bolton met them and the firefighters paid their respects to the victims and also the firefighters who fought the devastating blaze. A Palestinian scarf was ceremonially tied at one of the memorials alongside an FBU t-shirt that read: 'We will never stop fighting for you'.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EOPLE'S HISTORY

Thirty years of cuts: the slow destruction of legal aid

Azaad Sadiq starts with a look at Tory and Labour governments' attitudes to legal aid since the 1990s

Against the turmoil that characterised Tory politics in the 1990s Baron Mackay remained Lord Chancellor throughout the Conservatives' time in government, even as Major took over after Thatcher's resignation in 1990. Perhaps his constant presence in the cabinet was emblematic of another constant (one more commonly shared by politicians on the right): the desire to cut costs, at all costs. In this regard Mackay's policies regarding legal aid were typical of his party and, as is so often the case with Conservative policies, he appears to have given little thought to the effect of his cuts on the poorest.

Mackay and the Tories

Initially, the impact of Mackay's cuts on law centres was not especially apparent: a few law centres actually opened during his tenure (although this did not offset the eventual closure of a further eleven). The fact that so many centres stayed open spoke less of Mackay's regard for the valuable services that they provided and more of the decentralised sources of their funding (through local government, charitable donations and legal aid contracts).

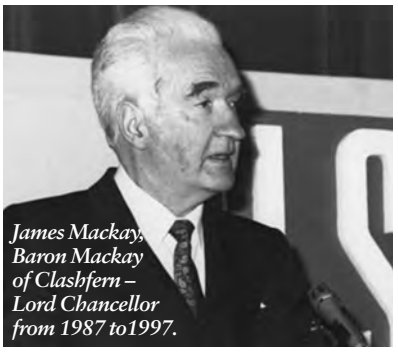
However, Mackay certainly hurt the law centres – especially through his cuts to civil legal aid. Between 1992 and 1994 alone the percentage of households eligible for civil legal aid was reduced from 53 per cent to 47 per cent. When considered alongside the new franchising measures introduced by the Legal Aid Board (with the admittedly valuable goal of quality control) it is clear that law centres were a victim of the collateral damage in the assault on legal aid. This culminated in Mackay's Green and White Papers of 1995 and 1996 respectively, which, for the first time, advocated for the implementation of a cap on legal aid spending.

While Mackay's proposals were met with derision, the fact that they were even put forward highlighted the precarious situation of law centres due to their dependence on legal aid. The cuts did not even appear to be backed by sound economics (with minimal payments that failed to take into account increasing rates of inflation) to the extent that the *Independent* questioned the justification for having a Lord Chancellor in a 1994 editorial. Donations from the Legal Aid Board notwithstanding (which, apart from a payment of £2.1 million out of £2.4 million in 1990-91, tended to be small portions of the budget available for LAB donations), the political environment created by the government was at best an inconvenience to law centres, if not outright dangerous to their continued existence.

> "Between 2012 and February 2015 the 56 law centres were reduced to 44"

New Labour, new cuts

Initially the government-in-waiting provided reasons to be hopeful: even after moving to the ideological centre under Blair, Labour in opposition were firm critics of Mackay's policies. Mackay's shadow, Lord Irvine, diagnosed the problem with the Green Paper: that it had 'the fingerprints of the treasury all over it'. Meanwhile, Blair had rightly argued that capping legal aid would compromise the UK's ECHR obligations, and he pointed out the policy failure of having longer trials (a natural byproduct of diminished legal aid). This admirable rhetoric, while not addressing law centres directly, hinted at a rosy portrait of an equitable justice system with proper representation for all.



James Mackay, Baron Mackay of Clashfern – Lord Chancellor from 1987 to1997.

Furthermore, the depth of New Labour's constitutional reform (including the Human Rights Act and the improved enforceability of the Article 6 right to a fair trial) appeared to indicate that the new government was prepared to make a substantial effort to effect positive change in this area.

There was even one piece of legislation that shored up the footing of legal aid. The Access to Justice Act of 1999 structurally altered legal aid, with the most important change being the replacement of the LAB with the Legal Services Commission. Replacing the body was perhaps a sign that the government realised that legal aid needed major reform, and the Legal Services Commission was created alongside the Criminal Defence Service and Community Legal Service. Moreover, to separate the two services was a sensible recognition of how differently criminal and civil cases worked. Although they were not addressed specifically within the Act, the importance of law centres was not lost on the government, which introduced Community Legal Services Partnerships and the Quality Mark scheme.

However, at the same time the Blair government restricted legal aid eligibility. Irvine, who repeatedly expressed his disdain for 'the significant number of QCs who earn a million per annum', introduced a range of cuts to legal aid – sometimes to force through other policies (cutting legal aid for personal injury so as to force claimants into no-win-no-fee agreements that put less of a strain on the public purse). Irvine's endorsement of such policies may have been no more than cynical rhetoric as they certainly contributed to a reduction in accessible justice.

From a purely ideological standpoint, Irvine's cuts to funding >>>

"Irvine followed his Conservative predecessors by crafting a legal aid policy with 'the fingerprints of the treasury all over it'"

Derry Irvine, Baron Irvine of Lairg – Lord Chancellor from 1997 to 2003.

>>> ironically promoted a system closer to classical socialism. Shifting the burden of legal aid away from firms to law centres shifted the provision of justice from a market-based system built on profit, and the fact that law centres are not directed by the government can lead to community-driven (rather than top-down) efforts towards achieving justice. Moreover, where legal aid is provided by private firms it can often be a sideline practised by out-of-touch junior solicitors rather than experienced specialists.

However, Irvine's plans to coordinate the equitable provision of legal services under the banner of the Community Legal Service scheme worked better on paper than in practice. It became apparent that councils would have to surrender power over funding, and plans for an equitable division of funding would have hurt the services and centres operating in areas with higher demand. Legal aid overall, and especially civil legal aid, was under immense pressure. While Irvine spared law centres the lashings of his famously serpentine tongue (he was more merciful to them than he was to the QCs) he followed his Conservative predecessors by crafting a legal aid policy with 'the fingerprints of the treasury all over it'.

Always a controversial figure, Irvine drew ire from the left and the right, comparing himself to Cardinal Wolsey, which the press predictably ran with. While he escaped Wolsey's particular fate the office of Lord Chancellor was not so lucky, eventually being abolished under his successor Lord Falconer, and most of its duties were absorbed into the new role of secretary of state for justice. Jack Straw later followed. Neither of them caused the same uproar that Irvine had, and this might be indicative of one the biggest problems facing law centres and legal aid in general: a lack of meaningful publicity.

In a stinging *Guardian* editorial in 2008 Madeleine Bunting diagnosed the problem: while the middle classes rely on the good public provision of a range of services, legal aid is not one of them. Underfunded law centres do not provoke the same outcry as cash-strapped schools. It is the 'many' who need the NHS, but only the few drowning at the bottom who appeared to need the support of affordable legal advice and representation. Few were outraged when the South West London Law Centres, managing 26,000 cases, had its funding was cut by 30 per cent.

LASPO: the final straw

Perhaps it was because they were executed alongside good policies, or because their effects would be considerably eclipsed by the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO), or because they were carried out by a cabinet full of lawyers, or because of the historic association of Labour with justice and public services, but the cuts carried out under Blair and Brown did not attract the same attention as the Coalition government's LASPO. While it is reassuring that an uproar eventually occurred, the relative dormancy of the 2000s confirmed to policy makers that they had the power to dismantle the justice system.

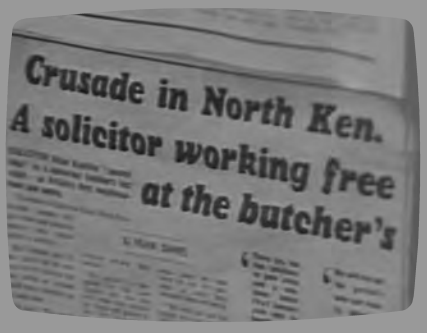
Of course, the public are more attuned to the Conservatives than to Labour gutting important services, which might explain why there was no LASPO-style reaction under New Labour. However, it can also be explained by the policy itself. While New Labour made placating attempts with legislation that addressed some of the problems surrounding the provision of justice, the Conservatives made no effort to counter the disastrous impacts of their cuts with other ways to mitigate their effects.

While the cuts were being developed in 2011, bodies such as the London Legal Support Trust predicted that LASPO would lead to the mass closure of law centres. They were right: between 2012 and February 2015 the 56 law centres were reduced to 44. Of course, this was only one symptom of the plague unleashed by LASPO as £350 million was slashed from the budget. Against their very ethos, the Islington and Rochdale law centres were forced to resort to charging for some of their work in the form of sister companies. This was too much to ignore and the protests emerged in the legal sector and beyond.

Despite the initial vigour of the protests, some of the energy was lost. Understandably, against the escalation of global chaos and the wider breakdown of the neoliberal consensus, perhaps the implosion of law centres did not seem particularly sensational. With successive governments and the press mounting attack after attack on legal aid, it was inevitable that apathy amongst the public would increase. It would take a major event to re-invigorate the legal aid movement, and that arrived in the worst way possible with the Grenfell Tower fire.

The tragedy on 9th June 2017 exposed the worst of the Conservative government's policies and the worst excesses of capitalist greed. Inadequate and ignored housing regulations became well known. Grenfell forced the public to confront the crisis of the pitiful state of law centres. Like most man-made tragedies, the victims of Grenfell were the poorest and most marginalised, however the scale of the disaster forced the public to reject the right-wing anti-migrant anti-working-class media frenzy that so often takes hold. More attention was paid to the question of the survivors' legal rights than would have usually been the case, and with the zeal with which the North Kensington Law Centre pursued justice for its community it became clear that the centre and its counterparts across the county were (in the prime minister's words) 'just about managing'. They had been struggling for survival.

With Grenfell receding from the public consciousness, perhaps legal aid will slip from the public mind too. It is important to harness the brief flicker of nationwide solidarity into a force that can help cement law centres' future, halting and reversing the slow decline that government policies have cause for the past 30 years.



From a butcher's shop to the Tory cuts

Oliver Subhedar on the radical history of North Kensington Law Centre

Images: thanks to Granada/World in Action

"There are two standards of law, one for the rich and one for the poor. We give first place to the poor client". Peter Kandler talking in the *World in Action: The Law Shop* documentary, 1974.

"We do as little as is necessary and get the people to do what they can for themselves because that way in the future when the same thing crops up again you've got a head-start [...] you're building up community awareness, you're building up the resources of the community, you're getting the community into fighting shape." James Saunders

Although legal aid was introduced in 1945 its provision was extremely limited in its first two decades. It tended to be available only for personal injury claims and very serious criminal matters. Social welfare, housing, immigration and the like were all outside its scope, as were more minor criminal offences.

Citizens Advice Bureaux and similar organisations did exist but, perhaps due to a perception that its volunteers were judgmental and out-of-touch, the voluntary advice sector was an under-used resource.

Typically, law firms in London were located in the wealthier parts of the city. In 1974 1,000 of London's 1,600 solicitors' firms were based in Holborn, the City or the West End. In Brixton, one of London's poorest areas, there were only four firms that accepted legal aid work. North Kensington was another deprived area of London. High levels of migration, particularly from the West Indies, into a historically poor white community, led to overcrowding and heightened racial tensions.

Racism was endemic in the police and judiciary and, according to Peter Kandler, one of the founders of North Kensington Law Centre, framing and corruption were commonplace.

Kandler had learned his politics in a basement café, the Partizan in Soho. Seeing the poverty and iniquity on the ground in areas like North Kensington, Kandler decided, on the encouragement of Chuck Taylor, to take practical action and try to grow the movement from a grassroots level.

It was against this backdrop that North Kensington Law Centre was founded on 17th July 1970 in an old butcher's shop on Goldbourne Road. The staff consisted of Kandler, his articled clerk James Saunders (who has since set up his own practice) and a receptionist, Jackie. This was a watershed moment: a new system of legal service provision had been conceived. Unsurprisingly for an area with a high black population and a racist, corrupt police force, the community initially reacted suspiciously to the law centre. In many residents' view the law was an instrument to harm, not to help.

These predispositions were what Peter Kandler, and founders of the 26 other law centres that sprung up in the poorest areas of the country in the 1970s, had to overcome. The NKLC initially struggled to entice people through the doors, but an ingenious idea to put newspaper clippings about cases that the centre staff had fought in the window changed things drastically. That tactic helpd the centre to see over 200 clients during its first three weeks.

James Saunders, now of Saunders Law, said that he and his colleagues wanted to be seen not as lawyers but as

Q. "Some people say you're a back-street second rate service"
A. "Sounds like someone who's never been in a back-street … I'm very pleased that we're in a back-street, that's where we should be. That's where people want to come and see us." Peter Kandler

members of the community with a peculiar skill. Just as a greengrocers or a fish-and-chip shop brings a community together, that's what a law centre would do. The perception of solicitors was that they were white, upper- and middle-class and had little in common with the most disadvantaged clients that they represented: "we're trying to, in a way, lose the aura of respectability. There's nothing wrong with being respectable, but it puts people off. They feel inferior. They want to call me 'sir' sometimes - terrible thing really."

It was this new, laid-back and less traditional approach that allowed law centres to flourish and differentiate themselves from other advice services such as CABs.

Unsurprisingly the road was not without obstacles, the biggest of which was funding. As has been the case throughout the movement's nearly 40-year history, funding was a constant worry for those running the law centres in the early days. Peter Kandler recalls that in the first five years the North Kensington Law Centre was 'always going broke'. Initially the centre was funded by private donations, but everyone involved knew that this couldn't last forever. Eventually the situation became so desperate that the centre wrote to the local authority to request funding. Sir Mulbery Crofton, the then-head of the Tory Kensington & Chelsea council, replied saying that the authority would be more than happy to lend money to the centre on the proviso that Kandler and two of his close associates on the management committee resigned from their posts. The centre responded by publishing this correspondence in the local press and raised almost £12,000, which kept the centre open until Labour won the 1974 general election.

During the Labour administration between 1974-79, law centre funding was much more secure and, as a result, the number of centres in the UK nearly doubled from 14 in 1974 to 27 in 1978. Without the threat of government interference, for the first time law centres could 'relax' and focus on their mission.

One thing that needed to be addressed was the racism, violence and corruption that occurred regularly in police stations in the early 1970s. Incidents where the police would beat up a black man and then arrest him for assault or obstruction were common.

"There used to be a police station in the Latimer road area, Notting Dale Police station it was called. The locals used to say that they could hear people being beaten up [in the station]" >>>

"Charity is never sufficient to meet a national need of this sort. The function of charity is really to go as far as it can in meeting problems and shame the community into realising that they've got to assume the burden. Charity isn't enough." Seton Pollock, The Law Society

>>> Kandler recalls. After the North Kensington Law Centre was founded, Kandler and other law centre staff attended police stations to prevent such outrages. For the first time legal services were available to people, including the poorest in society, 24 hours a day.

The services offered by law centres were not limited strictly to advice. Alongside traditional legal services the centres were also involved in outreach initiatives and grassroots activism. In terms of outreach into the community a Welsh law centre rode round the countryside in a bus, giving advice on the top deck and using the bottom deck as a makeshift waiting room.

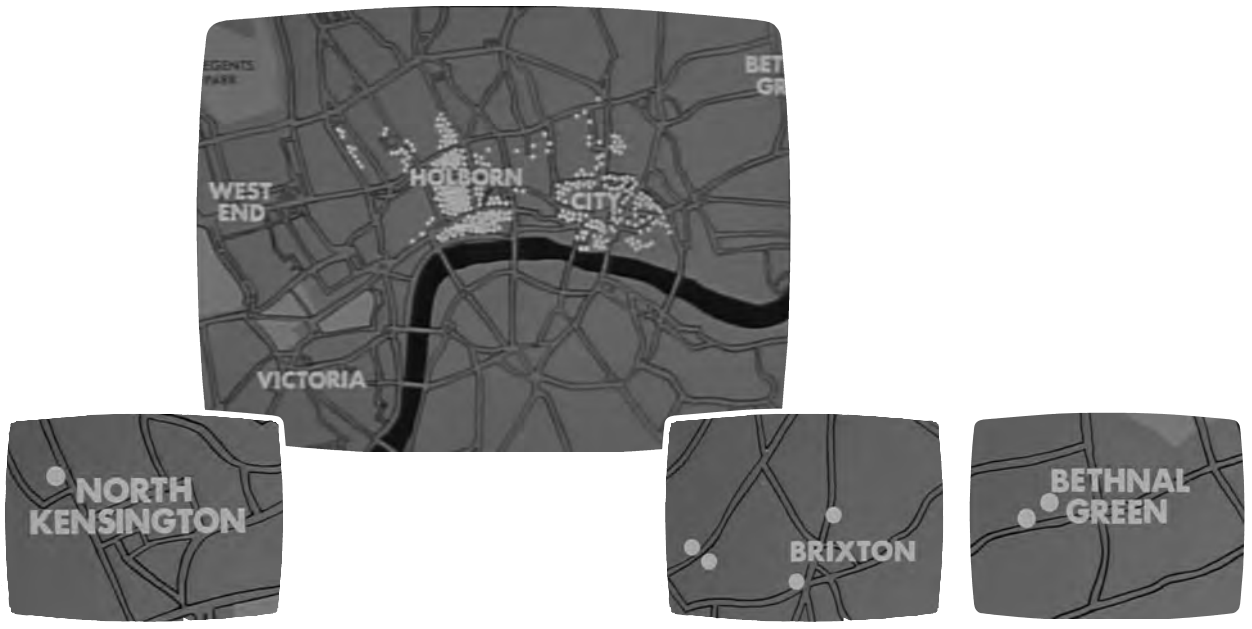
In a similar vein North Kensington Law Centre employed professional actors to play the roles of landlords and the police in skits that highlighted housing and criminal issues to a wider audience. After the performance law centre staff were on hand to field questions and give advice to anyone present. It is a shame that calls for a legal literacy scheme, which sought to empower people by increasing their understanding of their rights, has been consistently ignored for almost four decades since it was first mooted.

It was inventive tactics like these that allowed law centres to differentiate themselves from private practice and the stuffy and white-collar reputation that came with them. This departure from the traditional way in which legal services were delivered was key to allowing the centres to win the trust of local people that, in turn, allowed them to flourish. According to a pamphlet published by the Society of Labour Lawyers in 1976 'Lawyers in the centres have a greater awareness of the problems of the poor and they have a commitment to solving their problems [than lawyers from private practice]'. That claim was substantiated by a survey undertaken by the Consumers' Association in 2000 into the experience of particularly vulnerable users of legal aid services: law centre lawyers were found to be 'Action-Oriented and Street-Wise' and clearly understood the needs of their clients.

Many law centres were also heavily involved with activist causes that were close to the hearts of their communities. For example, the law centres in Hillingdon and Camden were heavily involved in grassroots activism relating sex discrimination issues in the 1980s . Likewise, the North Lambeth Law Centre focused much of its attention on housing law, using a public enquiry and large scale opposition to ensure that social housing was included in a commercial property project.

One could be forgiven for thinking that the election of the Thatcher's government would signal the end of the law centre movement. While it is true that the centres' funding was threatened, the extent of the cuts to legal aid under Thatcher pales in comparison to those that have taken place since. However, the Thatcher government did effect one significant and detrimental change to the direction in which free legal services were headed.

Under the Labour administration of 1974-79 there had been a general movement towards a centralised network of law centres comparable to the system of neighbourhood law centres that existed in the USA. Thatcher did not look at law centres with the disdain that many expected, but her approach to legal aid was one of



complete disregard . Advice centres were heavily funded while law centres were overlooked entirely, perhaps with the misplaced belief that, without central funding, this new system would diminish and disappear.

The Conservative government decided to delegate funding decisions to local authorities. This led to a patchwork approach, where law centres would subsist in areas where local councils deemed them valuable. In other areas local authorities cut or threatened to cut funding, leading to holes in the provision of access to justice.

The effects of Thatcher's decision to avoid a centrally funded network of law centres are still being felt. In Brent, traditionally a Labour authority, the law centre has merged with Citizens Advice, leaving it a shadow of the aggressive and direct Brent Law Centre of the past.

Plainly access to justice did not emerge from 11 years of Thatcherism unscathed. The provision of legal aid had been steadily increasing throughout the 1970s and 80s until 1986. Then came the first major cut. As has been the case so many times since, the cut was not based upon a cost-benefit analysis, but rather was the result of a lazy assumption that the only way to reform an apparently expensive and inefficient system was to make cuts. As ever, the poorest in society suffered.

It is a sad reality that this approach to legal aid has been adopted by both Labour and Conservative governments in the two decades since.

This bleak situation is only likely to get worse if a 'hard Brexit' leaves the UK as a laissez-faire dystopia. This would inevitably lead to more and more people needing accessible justice in the face of weaker employment rights, abusive landlords, violent partners or arbitrary benefit assessments. Legal aid is stretched to breaking point, while its pillars of support are being strained - leaving accessible justice dangerously susceptible to a disastrous implosion. Against such a harrowing backdrop exacerbated by a government that is at best apathetic and at worst malicious, the need for community-led accessible justice is stronger than ever. Despite overwhelming odds, community legal centres are still standing defiantly in their mission to empower the communities they serve.

"Despite overwhelming odds, community legal centres are still standing defiantly in their mission to empower the communities they serve."

A fully-referenced version of this article is available on request.

Jon Daniel

Artist, designer and black consciousness campaigner Jon Daniel passed away in October 2017.

This piece is an image of a design that Jon created for Platform's 'living memorial' commemorating the 20th anniversary of the death of Ken Sara-Wiwa, an environmental activist who was killed in the Niger Delta in 1995 (oil company Shell is widely believed to have borne responsibility).

Jon was an active supporter of his local advice centre and in 2015 he kindly let *Socialist Lawyer* feature his work *Icons: Railton Road* (pictured opposite, see the work in colour in the centre spread of *SL*72).

Socialist **Lawyer**

Magazine of the Haldane Society of Socialist Lawyers
Number 78, February 2018
www.haldane.org

(1966-2017)

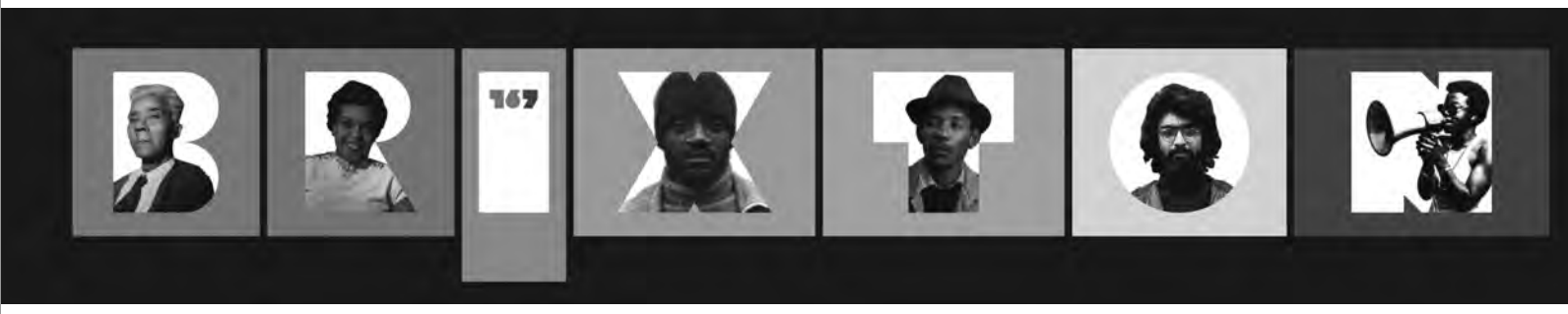
As well as his design work for Operation Black Vote and Black History Month, Jon is remembered especially for his *Afro Supa Hero* and *Post-Colonial: Stamps from the African Diaspora* exhibitions, and his *Four Corners* column which highlighted the work of black artists and designers.

Our thanks to Jon's wife Jane Daniel for allowing us to feature this artwork. More of Jon's work is available at *www.jon-daniel.com*

From the streets to the statute books

Alexander Hogg and **Joseph Latimer** on the radical history of legal aid in south London

"We didn't know we were activists until we looked back, that was how it was".



Jon Daniel's **Icons of Railton Road** *celebrated some of the people involved in the history of the Brixton Advice Centre – CLR James, Winifred Attwell, Darcus Howe, Linton Kwesi Johnson, Farrukh Dhondy and Olive Morris.*

Sitting in a small, congenial pub opposite Herne Hill railway station Pauline Edwards – the current chair of Brixton Advice Centre (BAC) – reminisced about community politics in 1970s and 80s Brixton: "we didn't know we were activists until we looked back, that was how it was". The law and advice centre movement has a vibrant legacy of action and activism rooted in local struggles across the country. What can advice centres like Brixton's and the wider campaign against austerity learn from Britain's past of radical lawyering?

The late Sir Henry Brooke's weighty contribution to the 2010 Bach Commission on Access to Justice, specifically his history of legal aid, has only cursory mention of communities as active participants in the expansion of law and advice centres. In his examination of the second period (1970-1986) of legal aid expansion, Brooke neglects the social history to chart the economic and bureaucratic history of legal aid provision. Policies such as the introduction of the Green Form Scheme, to restructure the qualification test for legal aid, and Conservative plans to shift the burden of funding for new law centres to local authorities are given disproportionate prominence. These top-heavy policies are coupled with an abundance of statistical data to form the substance of Brooke's restricted narrative. The absence of any meaningful investigation of social history – the events that shape a community's conscience – is glaring.

That 'on the record' history of legal aid is dangerously misleading. The heavy focus on the policy history tends to suggest that parliamentarians, councils and local philanthropists are promethean figures, handing down the gift of access to justice from the wealthy to the poor. The history of legal aid didn't start with Parliament but with radical resistance.

> "The history of legal aid didn't start with Parliament but with radical resistance"

Pauline and Fred Taggart (a trustee and honorary secretary at BAC), testify to the role of endemic institutional racism, the Brixton riots, and the subsequent 1981 Scarman Report in crystallising community action. This action led to the conscious recognition of legal rights and identification of the advice centre as the best vehicle for enforcement. As Professor Hartley Dean of the LSE has discovered in his work on social rights, the law centre movement in Britain in the 1970s was advanced by a panoply of enterprising action groups and community law projects – with a focus on welfare rights work. These groups were often staffed by idealistic young lawyers intent on challenging local authorities, institutions and ultimately the state to enforce the law.

Radical lawyers such as Henry Hodge (who in 1977 founded Hodge Jones and Allen, and worked as a solicitor for the Child Poverty Action group from 1970) were at the forefront of these efforts. Furthermore, test cases, such as action by residents of Loughborough Housing Estate in Brixton against the council under the (since amended) 1936 Public Health Act to remove asbestos from the estate were among the groundbreaking cases led by BAC and supported by local residents to improve the lives of poor and marginalised citizens. It was a period when advice centres did not have to tiptoe around local authorities for fear of funding cuts, but confronted entrenched interests.

Since Conservative reforms in the early 1980s, which shifted legal aid funding from the Department of Environment to local authorities, there has been a need for law and advice centres to forge closer links with council leaders to garner their support for continued funding. This continues today under the pressure applied by the Conservatives since 2010 to shrink the size of the state, but it should not dissuade advice centres and young lawyers from pursuing contentious cases and standing their ground.

Reliance on local government is one of the most troubling aspects of the >>>

"Kensington and Chelsea's treatment of its residents was outrageous, and it must have been extremely difficult for survivors to stomach the apparent links between the lawyers and the council."

>>> decline of the law centre movement since the 1970s. There is a tension where advice centres rely on council funding for their survival tension was exposed most clearly after the Grenfell fire: Kensington and Chelsea's treatment of its residents (before, during and after the fire) was outrageous, and it must have been extremely difficult for survivors to stomach the apparent links between the lawyers and the council. That conflict is repeated on a smaller scale all over the county. Local authorities are so often the enemy of the law centres' clients (as their landlords, benefits agency, social workers etc.) and it is difficult to trust lawyers whose links with the council are so obvious. The legal advice centre movement has come a long way: community lawyers are no longer a symbol of radical activism but appear to many as a professional, middle class emanation of the state.

Brixton Advice Centre is as reliant on legal aid for its viability as it is on local authority grants. Fred stresses the importance of maintaining good relations with both institutions. Nevertheless, politeness isn't always practicable. When Lambeth proposed severe cuts to the advice sector under the Conservative/Liberal Democrat coalition (2002 – 2006), the town hall was filled with local supporters attending in solidarity. Jenny Styles from the Waterloo Action Group stood up and explained that Lambeth's spending on the sector was already low compared to neighbouring boroughs and Fred passionately described the injustice such cuts would impose. Just before the councillors retired to make their decision, a young man from the gallery interjected. He reiterated the importance of the sector for the community and confidently stated that he knew they'd make the right decision. "After all" he said to the members, "you wouldn't want anything to happen to your nice town hall".

The proposed cuts were replaced with an increase in grants and, needless to say, the story is a favourite of all who were there. It illustrates the dynamic Brooke's history risks forgetting. The left-wing Hungarian historian and anthropologist Karl Polanyi has demonstrated that there exists a 'double movement' in society. Periods of regression, like that we have experienced since 2010, are challenged through counter-movements that seek to protect impoverished communities. It is this ongoing process of challenge and redress that law and advice centres are engaged in – it is work that depends on radical lawyering.

Legal aid and the survival of the capitalist state

Joe Latimer looks back at a work from 1985 which important insights for socialist lawyers today

"Legal advice work has a certain unrealised potential for socialist strategy, not because such activity can remedy the structural causes of poverty and bad housing, but because it has the capacity to lay them bare. The function of a socialist advice centre… would be to make the poor unmanageable."
Prof. Hartley Dean

Professor Dean was director of the Brixton Advice Centre in the 1970s and early 80s. He left the centre to explore his experience further in academia and has had a prolific and influential career to date. In 1985 he published *Legal Dis-Service: A Critical Appraisal of Legal Service Provision and Proposals for an Alternative Approach*, which is a >>>

Picture: Jess Hurd / reportdigital.co.uk

>>> provocative critique of the law and advice centre movement and draws as much from his own first-hand experience as it does from Marxist theory.

Fresh from the front line, Dean worried that public legal service providers, and the legal rights they help enforce, can 'channel concrete and political grievances into individual legal remedies and portray economic oppression as a failure of justice'. Do criminal, housing, employment and welfare law simply tend the fruits of economic inequality?

The housing cases brought to law and advice centres are general symptoms of the housing crisis. Crowded employment tribunals are necessitated by an abusive economy. Debt relief orders are sparingly offered to ease the hardship of austerity. Criminal law and its prisons overwhelmingly cater for the poor. Dean's concern is that legal remedies are palliatives incapable of attacking the roots of injustice.

The law and advice centres, and the radical lawyers within them, transformed participation in the British legal system and Dean does not deny the importance of their work. After all, he was engaged in managing the BAC for over a decade and recognises that preventing evictions and maximising income via the benefits system are vital fights to win. But for every client who is turned away, and for every successful eviction, one finds a tacit apologism for the state apparatus.

Moreover, and particularly relevant for present campaigns against the legal aid cuts, he saw a risk that focusing on 'legal need' and the language of rights bleeds the politics from poverty. Whilst Beveridge imagined that the welfare state could abolish want, it did not take long before this idealism floundered. Parliamentary socialism committed to managing poverty as opposed eradicating it.

Trotsky depicted the institutions of social democracy as safety valves for mass dissatisfaction. The 'oppositional criticism' they provide is encapsulated well by the courts. Landlords against tenants, employers against employees, the state against the thief: the legal system is how liberal democracy manages the endemic conflict of capitalist society.

Or at least it has done for a while. The Law Society's campaign for the reintroduction of legally aided early advice could well have been informed by Trotsky's insight. At its heart is a recognition that if stress can't be vented, anger emerges. When those safety valves for mass dissatisfaction stop working the whole machine is at risk. Like Trotsky, Dean suggests that well-funded public legal services are essential for the viability of British capitalism. Perhaps the conservatives should read more Marxist theory.

> "A socialist advice centre would have to abandon any pretence of professional independence or charitable status"

While the law and advice centres are creatures of class struggle, their potential for advancing radical politics is restricted. They are knotted in the dilemmas of apolitical charitable status and reliance on state funding. Their focus on 'legal need' conflates 'the illusory substance of legal rights with their real effects', leaving politics in the Procrustean bed of courts and tribunals.

How can this socialist theorising inform socialist lawyering? Dean concludes that the best way to augment the practice of public legal services is to reconsider how they are organised. This discussion seems particularly important as the model on which they've been based for the last thirty to forty years is attacked by austerity. 'A socialist advice centre would have to abandon any pretence of professional independence or charitable status. Such a centre would not claim to be impartial but would represent the interests of a class. This would mean sacrificing any possibility of funding through State or charitable channels.'

Dean offers the 'Workers Offices' of Germany from 1894 to 1906 as a model. The imbalanced relation between adviser and client was dispelled by mutual union membership. They were collectively financed and controlled and thus free of the politeness necessitated by philanthropic funding. Among much else, extra-legal bargaining chips like strikes and boycotts were just as important as judicial means of resistance.

While contemporary Britain and *fin de siècle* Germany are very different contexts, based on this model Professor Dean's conclusive proposal is for a law and advice centre movement funded through labour and the trade unions. The enjoyment of legal advice would attach to membership, which in turn could be extended to individuals and affiliate bodes such as claimants' unions, pensioners' groups; tenants' associations, migrant action groups, etc.

Whether this would trade one form of centralised dependency for another is debatable, but it's an interesting idea. Ultimately, Dean argues that political theory must be combined with 'concrete practice and experimentation'. As Corbyn's leadership and the grassroots support behind him reshape and revitalise British socialism, Dean's ideas seem particularly worth revisiting.

The author would like to thank Professor Dean for lending his only copy of *Legal Dis-Service*. The typewriter drafting is charming but the pages are fragile and the spine is in bad shape. Perhaps it's time to retire this weathered print and get some updated versions in circulation.

How to build a law centre

Rebecca Omonira-Oyekanmi visited the West Midlands to witness two law centres providing an essential service.

A young man in mustard khakis, a black bodywarmer and formal shirt walks into the office clutching a large red plastic bag bulging with paper. He perches lightly on the edge of a chair and begins to speak. Habib Ullah, a softly-spoken solicitor wearing a grey kameez and embroidered cap, sits opposite him listening.

The young man, who is 29 and married with a five-year-old child, starts to pull sheets of paper from his tattered bag; a letter from the council stopping housing benefit; a letter from the Department for Work & Pensions transferring him from Employment Support Allowance (ESA) to Jobseeker's Allowance (JSA); a letter from Jobcentre Plus informing him that there was >>>

"People are easily made destitute, it only takes one particular cut. It might be the additional charge for empty rooms in social housing (known as the bedroom tax) or the removal of council tax benefit."

>>> doubt about his claim and so his allowance had been stopped; credit card statements with £300 of debt; gas and electricity bills.

Habib sets about unravelling the paper trail and attempts to piece the man's life together. The DWP informed the council that the young man was no longer in receipt of ESA, but neglected to add that he would be on JSA instead. The council assumed that the young man had secured full time work and would no longer need housing benefit. While Habib writes a letter to correct the situation, the man reveals that he was ill and missed a CV clinic and this was why his JSA has been stopped. Habib examines the letter: it expresses "doubt" about the young man's claim, a final decision about the sanction is yet to be made. They will have to wait for a final decision and then appeal it. In the meantime, the Jobcentre has stopped paying him the allowance. The young man is still perched and looks uncertain. Habib turns to him: so, what have you got to live on?

More papers from the plastic bag. The family receives £62.89 a week in child tax credit and £82 a month in child benefit. The credit cards cover food, but they are behind on the heating bills. A new revelation: the young man has a mortgage, which he has fallen behind on since losing his job. He is worried about losing his home. Habib nods, his demeanour unchanged, and turns to print a hardship form. If the application for hardship payments succeeds the young man and his family will receive support of £80 a week. In the meantime, Habib tells him to come back when the Jobcentre sends a letter confirming his sanction.

The young man pushes his papers back into the bag, shakes Habib's hand and leaves the office. Habib follows him out to the packed waiting room. People have been queuing since 9.30am, the centre's drop-in session opens twice a week from 10-1pm. Habib is followed back to his office by a lady in a floor length black tunic with sequined sleeves and a cream head scarf trimmed with black ribbon. Her brow is furrowed and she carries a plastic bag full of loose sheets of papers.

Habib and his law centre colleague Michael Bates are well-known in Sparkbrook, a lively inner-city village in south-east Birmingham, where the need for their service is great. It is the second poorest ward in the city with unemployment at 18.8% and average household incomes below £20,000.

Habib has helped people with debt and benefit problems for 14 years; first as a volunteer, then as a paid case worker. He began practising as a solicitor in 2008 after a former manager encouraged him to study a law degree and complete the legal practice course.

Residents in Sparkbrook have been particularly hit by the cuts to public services and social welfare reform, which many rely on to top up low wages. People are easily made destitute, it only takes one particular cut. It might be the additional charge for empty rooms in social housing (known as the bedroom tax) or the removal of council tax benefit.

"We really need to think about how the changes impact people who are the most vulnerable in our society" says Habib.

"I have one case – he receives £72 a week Jobseeker's Allowance. His children aren't living with him anymore, he has two extra bedrooms. So he has to pay £25 a week towards his rent from the £72. Then all the bills on top of that."

Then there is the actual process of securing state support. Many low-income jobs are insecure, which means people are frequently in and out of work. The process of seeking social welfare for the in-between times is often slow and can take weeks and months leaving people with little to live on the meantime. "A lot of the problems we deal with are probably caused by bad administration and decision making. If Jobcentre Plus had more staff and more resources then that would cut out a lot of appeals and tribunals hearings so you could save money in the long run".

On the streets outside Habib's office, Sparkbrook is quieter than usual. On another day you might see men frying battered vegetables and giant samosas in huge metal bowls, cluttering the pavement outside brightly-displayed sari shops and newsagents. But it is Ramadan, a time of fasting from sunrise to sunset for many Muslims, and so the shutters are down on most of the curry cafes that fill the main high street, though the smells of roasting spices and chargrilled meat persist.

Birmingham Community Centre Law Centre is on a residential street just off this thoroughfare in a large terraced house. The property is owned by the Bangladeshi Centre, a local charity, who once used the building to provide community services until they ran out of funding for this work eight years ago.

It is an ambitious, if precarious, operation, which consists of Habib and Michael providing advice, a part-time legal secretary and a young receptionist fresh from a law degree. Boxes with reams of case work are slowly being unpacked and thick legal handbooks balance on shelves. The office has been running just 10 months, but word has spread quickly and in that time 500 people have been in and out needing help. Michael and Habib,juggle an enormous workload providing welfare benefits, debt, public law and community care advice, and they can only afford to open the office a few days a week. Despite limited time and funds the centre is imbued with optimism and zeal.

Yet this time last year both Michael and Habib faced unemployment and Birmingham faced losing its only community law centre.

Before the opening of their new office in Sparkbrook, both Michael and Habib worked at the old Birmingham Law Centre for 17 and 14 years respectively. That closed abruptly in 2013 leaving Britain's second largest city without a community law centre.

Birmingham was one of nine law centres to close since the implementation of the Legal Aid and Sentencing and Punishment of Offenders Act last in April 2013. Many others are on the brink and all have had to reduce their services dramatically.

A combination of things are to blame. The biggest two, say industry

"The role of a law centre, says Sue, should be to help those least able to access that right."

insiders, are one, the recent changes to the law which removed employment and debt advice from the scope of legal aid funding and severely restricted it for housing, immigration and welfare benefits. The second reason is more than a decade of reforms and tinkering with legal aid payment structures, which has led to lower fees paid to lawyers for each legal aid case they take on.

For law centres, whose role has traditionally been to provide advice to poorer people unable to pay a private solicitor, the changes have been particularly difficult. Much of the government's welfare reform has been fraught with mistakes and the victims of this are usually those on low incomes. These very people make up the bread and butter work for law centres; their need is growing just as the capacity of law centres to provide advice is being squeezed. The majority of a law centre's funding will come from local authority grants and legal aid payments from central government, again, both areas with drastically reduced budgets.

Before the old Birmingham Law Centre succumbed to these pressures, its staff of twenty knew what was coming. Michael, a cheerful Birmingham-born man in his early forties, was devastated, not just at losing his job, but also because of the potential disruption to the lives of his clients. "We were seeing 2,000 a people a year," he says. "And doing full legal aid case work. That old fashioned model of seeing people on an appointment basis, face to face, giving instructions, giving legal advice and offering support in order to progress their case and move it to a satisfactory conclusion. That is how we dealt with every client that came to see us."

In recent years the centre had advanced successful challenges to the bedroom tax and for migrants' rights; Michael was part of a legal challenge to the DWP over its decision to deny social security to migrant families with British children who, despite a legal right to remain in Britain, have no access to public funds.

So Michael came up with a plan to save the law centre. "An idea developed in my head, it was bigger than what we have ended up with, to save three, four, five members of staff and come here" he says gesturing at the Bangladeshi Centre office. "We knew this place was empty, we had got the keys, Habib has been letting himself in for the past eight years."

Habib first began providing free advice and legal education in his spare time at the Bangladeshi Centre more than a decade ago. And even when the Centre could no longer fund its own community services, he continued with support from Michael. Clearing out the centre in preparation for their new venture, they came across a dusty notebook: *Bangladesh Centre Office Manual* written by Michael Bates and Habib Ullah, 2001.

Michael had to act quickly before the old law centre went into liquidation, once that happened existing funding for legal aid cases and any other assets would be lost to creditors. "The idea was to try and transport as much as we could carry down here and see what we could save and what we could keep going.

"I knew that we wouldn't be able to do that on our own. And Sue at Coventry Law Centre was the first person I thought of contacting."

It is mile four or five of the Birmingham Legal Walk, but Sue Bent shows little sign of fatigue, instead she is making an impassioned argument against the cuts to legal aid.

The annual 10km walk meanders through Birmingham's evolving city centre, a hum of building sites, historic landmarks and sparkling new buildings made of glass or metal and shaped like spaceships. Hundreds of lawyers from across the Midlands have turned out, many using the opportunity to voice their opposition to the reforms impacting on both criminal and civil law.

Sue, wearing T-shirt, walking shoes and bright dangly earrings, has convinced most of her team at Coventry Law Centre to 'walk for justice'. She has also got Lord Bach, a former government minister and patron of her law centre, involved. Strolling onto one of the city's canal paths, he nods in agreement as Sue speaks. Both agree that the changes to legal aid funding extend beyond financial repercussions for individual practitioners, the changes pose a fundamental threat to the rule of law.

It is one of many examples of Sue's ability to galvanise and rally people to her cause and way of thinking. This is that every citizen being able to access legal advice is essential for a socially just society. The role of a law centre, says Sue, should be to help those least able to access that right. "For me there is very little point in passing legislation, in having courts and judiciary if access to those things that protect people is only accessible to part of the population. It is not an equal society".

Sue took over as director of Coventry Law Centre 10 years ago and during that time developed a distinctive vision of what a law centre should be.

Prior to that she worked as a senior manager in social housing for a local authority. "It took about five years for me to work out what the possibilities of running a law centre offered. It was a very steep learning curve managing solicitors and understanding what they were doing. Then I began to see just how powerful a law centre could be if it was, not just doing its basic job of providing quality legal advice to people, but if it was respected as an organisation with a voice in its local community."

Perhaps because of this, Coventry Law Centre has weathered the cuts to legal aid funding and changes to the fee structure better than most. The ethos is clear, but how does it work in practice?

They rely on an eclectic mix of >>>

" If a client arrives at a law centre wanting to challenge their landlord's neglect of their property, unless the disrepair caused represents a serious risk to that person's health, the case is outside the scope of legal aid."

>>> funding. One way central government provides legal aid funding is through 'matter starts'. Each matter start represents one person or client, and for each matter start you claim a fixed fee.

If a law centre or any other advice organisation relies on these matter starts, then advice work is limited to whatever the government is willing to pay for.

Take housing advice. Under the latest changes huge swathes of housing problems are no longer funded by legal aid. If a client arrives at a law centre wanting to challenge their landlord's neglect of their property, unless the disrepair caused represents a serious risk to that person's health, the case is outside the scope of legal aid. Put simply, a solicitor can choose to spend several months helping to sort out a problem before it spirals, but not receive any funding. Or they can wait till their client gets sick from the disrepair, challenge the landlord, and secure legal aid funding for the work.

"It has removed one of the key tools of housing which is early intervention, sound advice to avoid a crisis later on down the line. The drop off in the amount of people we can see is huge" says Emmett Maginn, a housing solicitor at Coventry Law Centre. "In terms of trying to do casework for somebody from start to finish without legal aid funding, that has been severely inhibited, quite simply because the resources aren't there. [Though] we deal with the ones which are quite egregious and those particularly vulnerable".

But it is Sue's vision that these very people, the poorest and those with claims too small for private firms to take on a 'no-win-no-fee' basis, they are the people the law centre should serve whether the government chooses to pay for it or not. How does Coventry pay for it?

It's difficult, but by relying on a variety of funders in addition to the government's legal aid contracts, such as charitable trust funds, large funding organisations like Comic Relief and significant local authority funding, the centre can attempt to provide meaningful legal advice for the most difficult cases.

It is important, says Sue, that the centre's service is not to be shaped by the government's legal aid contract. "Our client group tends to have within it a high proportion of people with multiple and complex needs with whom in an ideal world you would spend more time. The legal aid remuneration arrangement really didn't allow us to do that.

"We were still able to do it to some extent here because of our other funding streams. But law centres that were largely reliant on legal aid were really up against it in terms of remaining true to what a law centre is about. Which is having the capacity to really work with those most vulnerable people".

Another way the law centre is able to provide a diverse service is through its relationships with other community groups. One partnership is with the Young Migrant Rights Project supporting undocumented young migrants in accessing services, providing them with a legal understanding of their status, peer support, and companionship through what is often a traumatic process. This mix of advice and social work meets an unmet need and has attracted a mix of funding from charitable trusts.

That is not to say Coventry Law Centre remains unscathed.

Their employment team has dropped from three advisors to just one, yet demand is growing. "We had enough work for more than three people. Now we are having to turn people away," says Elaine Hill, the centre's employment and discrimination solicitor. And while the government has taken debt completely out of scope, more and more people are getting into debt, says Phil Monk, a solicitor who has worked in money advice for 14 years. Coventry's team of debt advisors has dropped from four to two, he says. "We are now reliant on housing associations, the city council, and some money from Coventry Building Society fund to do debt work. The debt has significantly increased."

Even when the economy is healthy there are certain levels of debt, he says. "People get into debt for normal life events – bereavement, divorce, separation, illness. But now you have got the additional fact that some people are losing money on benefits, bedroom tax. You have got the change from Disability Living Allowance to Personal Independence Payments. All these benefit changes have an effect on how people can afford their bills. People on benefit can't increase their money, it is what they get. These are disabled people, people unfit for work. How can they cover the extra cost? It is inevitable they are going to get into difficulty. I saw two people only yesterday having to pay extra because of the bedroom tax. Those people have got to find an extra £14-25 a week".

In such a climate it is easy to see how, despite increased need, Birmingham Law Centre went into liquidation in August 2013. But it is a worrying indicator for Michael and Habib's enterprise.

Except that the new Birmingham Community Law Centre is in fact an arm of Coventry Law Centre. One of Sue's partnerships, expanding the reach of what a law centre can do. There is a strict separation in terms of funding. The funding Coventry Law Centre receives from the local authority for people living in Coventry, for example, cannot be used to finance work at the Sparkbrook centre helping people in Birmingham. "The deal is in order to operate here we need to raise money ourselves" says Michael.

He went to Sue for advice and support in developing a similar type of law centre to Coventry, led by community need and driven by a commitment to social justice. "I hadn't fully worked out the question that I was asking. I was not far off," he says laughing. "But Sue helped me shape what it was that I was asking and helped me make sure that I was bringing all of the information that I needed in order to ask the question properly so they could go through some sort of due diligence process." They developed a funding strategy relying less on legal aid contracts and more on major donations from local and national charitable trusts. They also had to ascertain what funding contracts could be carried over to the new centre.

And Michael had just a month or

"Dave can be heard loudly voicing his anger at the council's refusal to support a young refugee woman and her new-born, who are living in squalor."

two to plan all this before the old law centre went into liquidation on 7th August 2013. "There has been a lot of stress in the last 12 months," he says with a grin.

What helped was the willingness of others to step in. "Almost without us having to ask we then got lots of small trust funds offering us money" says Sue, "even though we still hadn't said what we were going to do. What has been really heartening is we attracted so much support from within the funding community and the legal community in Birmingham. Everyone recognised that Birmingham should have a law centre and it is not OK for it not to have one. And they want to support something that hopefully might grow and start to maybe fill a gap that was left by Birmingham Law Centre closing."

Being associated with Coventry Law Centre with its existing quality standards has meant the new law centre has recently secured legal aid funding contracts for welfare benefits in the upper tribunal and community care. This funding is additional to what they can secure from charitable donations and will help increase office hours and employ more advisors.

Already the centre is beginning to resemble the ethos of Coventry's set up. In one of the large, empty rooms on the first floor of the Bangladesh Centre, Dave Stamp, a manager from the Asylum Support & Immigration Resource Team, a West Midlands-based organisation, gives immigration advice. There is a huge need in Sparkbrook. Dave can be heard loudly voicing his anger at the council's refusal to support a young refugee woman and her new-born, who are living in squalor.

There are crossovers between his work, Michael's work on families with no recourse to public funds and Coventry Law Centre's migrant outreach work. This presents a strong case for funding from bodies interested in migrant rights and not tied to very local geographical impact.

In many ways Birmingham Community Law Centre resembles the very first law centre in North Kensington in West London back in 1970.

In 1949 the Legal Aid and Advice Act established for the first time a legal aid scheme for both criminal and civil advice, but it was administered and delivered by lawyers in private practice. This created problems of access for those on low incomes and people living in poor areas. In a report written in the late 1960s assessing the first decades of legal aid, Alan Paterson writes: 'To the ordinary office or factory worker, the solicitor's office is far more remote and forbidding than the dentist's or doctor's surgery'. Added to this, there weren't many solicitors' offices in working class areas. A 1970 documentary by the *World in Action* team reported that in London, for example, 70 per cent of law firms were clustered around Holborn and the City. Whereas in Brixton there were just four firms serving 100,000 people and two for the 64,000 people living in Bethnal Green in East London.

North Kensington law centre opened in what was then an area beset by poverty, racial tension, dilapidated housing and aggressive policing. In the years before the centre was founded in 1970, Peter Kandler, a criminal law solicitor and one of the founders of North Kensington, recalls cycling around the area giving ad-hoc legal advice to people in their homes and churches. He was part of a group of young radicals trying to root their activism in local communities. Peter, now in his 80s, says the "new left" decided the trade unions weren't doing enough to involve ordinary people with everyday problems in political change.

The new law centre office was based on the high street in an old Butcher's shop. "A group of us got together and raised the money. I had just got married, my son was a newborn. If I had thought it through I would have been scared," he says.

The reasoning behind the decision to open the law centre – a decision heavily contested by the majority in the legal industry at the time, who feared the "socalisation of legal aid" and hated the idea of salaried legal aid lawyers – is familiar. The desire was to reach ordinary people providing a mixture of legal advice and social work, all underpinned by a keen sense of social justice. "I don't think the case for law centres has changed," says Peter. "They must be based in the community to give a proper service."

It's 12.40pm and there are still people waiting in the front room of the Bangladeshi Centre for advice. An elderly man in a long white tunic, a grey woollen cardigan and smart black shoes sits in front of Habib. His plastic bag contains two A4 lever arch files.

His private landlord is trying to evict him for rent arrears. The landlord has also written to the council requesting that they pay the elderly man's housing benefit direct to him; they agreed. The figures don't add up and it is clear the landlord has plucked the £2,000 in unpaid rent out of nowhere. The council has also failed to inform the client about the new housing benefit arrangement.

Habib, who gives this advice in Urdu (throughout the morning he has switched between Bengali and English) turns to his computer and begins to type.

Rebecca Omonira-Oyekanmi is an investigative reporter and writer. This first appeared in *Lacuna* magazine in 2014 and is reproduced here with their kind permission.

SELF-ORGANISING AGAINST STATE VIOLENCE

by **David Jones** and **North East London Migrant Action**

The rights of black and minority ethnic individuals, families and communities have been under sustained attack, through macro policies as well as micro practices, as state violence against those who are not white and British has reemerged over some years. This has been magnified by the government's austerity agenda, using 'othering' to the same ends. An endless list of immigration law reforms has ensured that the everyday life of those who are not white and British has become an obstacle course to integration when they are not excluded outright.

This political and legal context has fomented micro practices of racism through the democratisation of immigration enforcement powers. By internalising borders and legally forcing civil society to conduct entitlement checks on every aspect of life, the state ensures its monopoly on violence is more distributed and pervasive than ever before.

It is particularly stark and sinister when coming into contact with agents of the state and those acting on their behalf, e.g. private or 'charitable' sub-contractors. Some of the new policies have been judged unlawful but their practical enforcement often circumvents the law, or uses it to their advantage. Abuses of power through gatekeeping or intimidation are hard to challenge formally, yet they are a common experience for many.

In response to these attacks on the lives of black, Asian and other minority ethnic individuals, families and communities, a number of new groups and networks have sprung up. The arrest of nearly 100 Latinxs outside a concert hall in 2012 led to the creation of the Anti-Raids Network (ARN). North East London Migrant Action (NELMA), set up in 2015, first came into being to help families who approached social services departments for support because they were destitute and homeless, then found themselves against a wall of discrimination and illegal actions by representatives of local government. In 2017 NELMA also coordinated a campaign to end the detention and deportation of European homeless people.

They are examples of practices where people have come together in solidarity to stand up for themselves and each other against state violence. They do not provide a service to 'people in need' or campaign for 'better' or 'fairer' policies. Instead they are basing their practice in the everyday lives of the people affected by macro and micro state violence and standing in solidarity to challenge it and fight back. This is done through direct involvement in situations of violence as well as trying to disrupt the flows through which violence is made possible, always placing itself on a plane of practice before discourse.

Learning rights outside the 'professional' context

The main source of learning comes from lived and shared experience, of coming into contact with state violence in multiple forms: legal, bureaucratic or financial. Micro-practices tend to happen on the margins of the law, yet they are essential to the state apparatus in denying rights. For example, a 'child in need assessment' never begins with the interests of the child, but with an interrogation of the parents about their immigration history, sometimes accompanied by threats of taking the children away. During enforcement visits policy and guidance should inform how immigration officers act. Yet they often force their way in, with questionable if not a complete absence of intelligence and no written authorisation to enter. They rely on intimidation, threats and consent forms signed after the event, which amounts to those being arrested signing their own arrest warrant.

Both NELMA and ARN have a very specific remit, which enables people involved in

Picture: Jess Hurd / reportdigital.co.uk

those networks to build detailed knowledge, both legal and practical, of the issues at stake. This also means that they are able to produce templates and information that can be disseminated widely. ARN has produced bust cards in 27 languages and NELMA produced their own in 10 European languages. Both NELMA and ARN also rely on phone and social media to respond to enquiries and share knowledge. There are some limitations to this type of issue-based activism however. While effective and highly knowledgeable about the issues they deal with, their intermediate goals are limited in reach. Moving beyond specific practices and achieving their ultimate purposes would require more interaction with other networks and a deepening of antagonistic action.

Having knowledge of one's rights does not necessarily translate into an ability to enforce them. It is common for social workers, homeless outreach workers or immigration officers to abuse their power and position by bullying those needing their support. While interested in knowing more about their rights to stop immigration officers from entering their premises, shopkeepers pointed at the limitations of this knowledge in practical situations. Citing threatening language and physical intimidation, they often felt unable to stop immigration officers by themselves.

Enforcing rights outside the 'professional' context

The means of enforcing rights are diverse and highly dependent on context. It is impossible to respond to being interrogated and encouraged to leave the UK under the guise of a children in need assessment in the same way that shopkeepers might respond to half a dozen immigration officers forcing entry.

NELMA's accompanying scheme volunteers ensure that families are supported throughout the assessment by acting as witnesses and advocates. Their presence also ensures that social workers are less threatening and more moderate in their choice of language. NELMA has built detailed knowledge of social services' practices across London, from which it is able to challenge local government directly and build evidence for strategic legal action.

NELMA's phone advice line during the campaign against the detention of European homeless people ensured that those caught up by the unlawful and violent arrests conducted by homeless charities, local authorities and ICE teams had a way to reach out, even when on the verge of being removed. The phone number circulated in Yarl's Wood, from where several detainees were released. This also relied on the vital support of volunteer interpreters and others doing street outreach.

ARN's mission to resist immigration raids happens through informal interactions in affected neighbourhoods, through weekly market stalls and workshops. During raids, individuals have used filming, direct confrontation, obstruction and acts of sabotage to foil the raids. Other practices to disrupt raids exist but making them visible would be ill-advised.

Self-organising as self-defence

Today, the principle of self-organising is best expressed as self-defence against the state.

Both ARN and NELMA are heterogeneous by nature. It is purpose rather than shared identity that defines the self and binds together those who stand against state violence. Participants have witnessed it or been affected by it. And they have decided to act. This does not mean there are no differences in lived experience, or that some participants don't have more privilege than others. But this comes into play when discussing tactics rather than prohibiting people from self-organising and taking action.

Purpose can also bring different levels of engagement. Some might simply defend themselves in a particular set of circumstances. Others will have a broader set of beliefs in relation to the state and the violence it inflicts on people. The networks-in-action are formed at the intersection of those various attempts to defend oneself and others. A diversity of tactics should always be supported and encouraged, even when it might sit uncomfortably with differing factions.

The principle of self-organising described here comes within a broader practice referred to as 'informal organising'. This approach can be summarised by a strong rejection of leadership and hierarchies. It also rejects the necessity of building formal organisation and brand to effect political change, instead submitting organisational forms to the project's ends, modulating structure at will. By rejecting both leadership and formal organisation, informal organising points towards the desire to find oneself and each other beyond the limitations that the state-form imposes.

'We cannot be satisfied with the recognition and acknowledgement generated by the very system that denies a) that anything was ever broken and b) that we deserved to be the broken part; so we refuse to ask for recognition and instead we want to take apart, dismantle, tear down the structure that, right now, limits our ability to find each other, to see beyond it and to access the places that we know lie outside its walls. We cannot say what new structures will replace the ones we live with yet, because once we have torn shit down, we will inevitably see more and see differently and feel a new sense of wanting and being and becoming'. ***Jack Halberstam***

To go beyond self-defence today requires that we take the initiative, fighting first rather than fighting back, to create informal modes of organisation and interaction acting against the state.

NELMA website is https://nelmacampaigns.wordpress.com

TAKING THE 'HOSTILE ENVIRONMENT' TO COURT

Stephen Knight on the case that shone a light on the Home Office's practice of deporting homeless EEA citizens, and the collaboration of homelessness charities in the project.

The case of *R (on the application of Gureckis, Cielecki, & Perlinski) v Secretary of State for the Home Department* [2017] EWHC 3298 (Admin)

The policy

In February last year Gunars had bedded down for the evening on the central London pavement that was his home, when he was approached by officials from the Home Office. They demanded to know his identity, nationality, and whether he was working. When they found out that despite a job interview scheduled in the coming few days he did not currently have a job, they gave him a stark choice: book a ticket to leave the >>>

Picture: Steve Cadman CC BY-SA 2.0

>>> country in the next few days, or be detained indefinitely and eventually forcibly removed. Unsurprisingly, with this threat hanging over him, he chose to return to his home country. Before they left him that night, the Home Office officials took his identity documents away, and gave him a deadline by which he was required to report to the Home Office to demonstrate that he had booked a ticket to depart.

Gunars was one of the lucky ones. In a one-year period the Home Office forcibly removed over 700 European nationals for being homeless. The vast majority of them were from Eastern Europe. A very large proportion were never even given a choice to 'voluntarily' depart, but were instead immediately carted off to immigration detention centres.

The Home Office policy was a cynical attempt to reduce rough sleeping statistics in the UK, particularly in London, by simply shifting the problem elsewhere. Instead of investing in decent accommodation, job training, and meaningful outreach services, the government simply removed those it considered a problem: every homeless person deported to sleep on the streets of Warsaw, Bucharest, or Vilnius was a success story.

The techniques used by the Home Office amounted to a calculated exercise in state violence. The confiscation of identity documents is a case in point. There is no benefit to the Home Office in confiscating a European citizen's identity document, as they can be repatriated without the need for a passport or identity card. So why do it? Firstly, because if individuals appeal to the Tribunal they cannot prove that they are exercising EU free movement rights, thereby damaging their case. Secondly, and more importantly though, because under Theresa May's hostile environment it is impossible to find a home or employment without being able to prove the right to reside in the UK. The Home Office knew that by confiscating identity documents they would further impoverish those subject to their deportations policy: their only way to live would then be to leave the UK. One case has come to light where a person who was unable to access any support because their identity documents were stolen by the Home Office died on the streets of Liverpool.

Detention is another method the government used to encourage 'voluntary' departures. The threat of detention is what encouraged Gunars to agree to go home. Equally importantly, the UK uses a system of indefinite immigration detention. Those who are detained face months or even years in immigration prisons, during which time at every opportunity the Home Office informs detainees that they can end their detention if they will agree to their own deportation. The mental torture of detention is enough to make many people accept.

However, perhaps the most despicable technique used by the Home Office to implement its policy was the co-option of local authorities and charities to do its bidding, making them part of the system of internal borders it has created. The homelessness charities St Mungo's, Thamesreach, and Change, Grow, Live were funded by the Home Office and local authorities to assist in the deportations policy.

Their level of complicity in the Home Office's policy varied, but at its worst St Mungo's helped to train Home Office immigration enforcement officers and shared information with them which allowed them to target homeless people. Immigration officers regularly accompanied charity outreach workers when they went to meet homeless people, with charity workers identifying 'problem' cases for removal. There were even instances of charity workers entrapping people who were on the brink of homelessness but not yet rough sleeping, telling them where to bed down to get help from the charity: the charity workers then attended with immigration enforcement officers to issue deportation decisions. The charities were financially incentivised to co-operate with the Home Office in this way, turning outreach workers into internal border guards.

Building the case

A legal team of solicitors and barristers, led by the newly-formed Public Interest Law Unit at Lambeth Law Centre ("PILU"), had become aware of the government's policy and were considering ways to challenge it. Serendipitously, Gunars at the same time brought his case to Lambeth Law Centre. The legal team secured a reprieve for Gunars by bringing an appeal in the Tribunal. However, they also used his case to bring a judicial review against the entirety of the policy. Over the following months Gunars' case was joined with the case of two other individuals who had also become subject to the policy: Mariusz Perlinski was detained by the Home Office on the basis of being homeless, and Mariusz Cielecki whose homelessness was used by the Home Office as a basis to assert that he wasn't exercising Treaty rights, and so had no right to stay in the UK.

The cases were just the tip of the iceberg. PILU, along with North East London Migrant Action ("NELMA") and barristers from 1 Pump Court, Lamb Building, and Farringdon Chambers, established a pro bono clinic at the Akwaaba social centre in order to reach out to other people who had been caught by the policy. Over 30 people approached the legal clinic at Akwaaba seeking support, and dozens of others sought support from other lawyers linked to the main challenge. However, inevitably many people still fell through the cracks.

Right from the outset, the legal team had made connections with academics and activists to help to build the case. Jean Demars, a London-based academic, had for some time been conducting research in this area. He was able to provide the legal team with a large

"At its worst St Mungo's helped to train Home Office immigration enforcement officers and shared information with them which allowed them to target homeless people."

amount of research on how the policy operated on a practical level. When the case reached court he would act as an expert witness to substantiate the Claimants' case. Activists from NELMA were also invaluable in connecting the legal team to those subject to the policy, and in disseminating information on individuals' rights when encountered by the Home Office.

The case in Court

The Home Office had based their policy on the assertion that rough sleeping amounted to an 'abuse' of Treaty rights. The legal team for the Claimants argued that this was simply wrong in law: being poor could not mean that a person was abusing their right to free movement. Equally, the policy was discriminatory on the grounds of nationality and property, and amounted to an unlawful systematic verification of the abuse of Treaty rights. In certain cases such as that of Mr Cielecki the Home Office had made removal decisions on the basis that rough sleepers were not exercising their Treaty rights: in these cases the Claimants argued that this was an unlawful systematic verification of the *exercise* of Treaty rights.

When the judicial reviews on behalf of Gunars and others first reached court they were refused permission on the papers. The cases therefore went to a permission hearing in June 2017. At that hearing the Home Office made submissions that were truly shocking to members of the public observing, including that the Home Office needed to remove rough sleepers from the UK because they 'failed to integrate', they 'undermined the purpose of free movement', and that they each created costs for councils of over £20,000 per year by (for example) defecating in the street. Permission was granted at the end of the hearing in fairly short order.

Subsequently though, the Home Office continued to act in a contemptuous and obstructive manner, failing to respond to communications, lodging applications with the court without telling the Claimants' representatives, and securing adjournments in the case to negotiate when they had no intention of engaging in any negotiations. It was clear from the outset that they knew that their policy was bad in law. All that mattered to them was delaying so that they could continue to implement it.

Such was the case's importance to the Home Office that by the time the case returned to court in November 2017 the First Treasury Counsel was appointed to act for the Home Office. Nonetheless, the quality of the government's arguments remained poor. They were unable to coherently explain how rough sleeping amounted to an abuse of rights. At a late stage the Home Office changed its policy, asserting that only some rough sleepers were abusing their Treaty rights, for example by 'persistently' or 'intentionally' rough sleeping. However, they were never able to show how even this could amount to an abuse of Treaty rights.

Only three weeks after the hearing the High Court ruled in favour of the Claimants on all grounds. The only argument which did not succeed was whether the policy was discriminatory on the grounds of property, but this made no difference to the outcome: the policy was immediately quashed. Many cases will now proceed to the next stage, of determining the damages payable for the Home Office's unlawful actions.

The lessons learnt

An analysis of the costs of the project demonstrates that it was not the result of simple financial considerations. The cost of detaining a person in an immigration prison exceeds £100 per day. Added to that is the cost of midnight patrols to search for migrants to deport, the establishment of internal border infrastructure, and the expense of defending appeals through the judicial system. The cost of providing an individual with sustainable accommodation is much less. What in fact drove the government's project was racism, and fear of the poor.

A policy whereby the government deliberately targeted the most vulnerable in society for imprisonment without charge, deportation, or enforced destitution, should never have been allowed to exist in the first place. The existence of this policy shows how deep the inhumanity of Home Office policymaking runs. Further, the fact that some homeless charities were willing to be co-opted into administering the policy demonstrates how they have become little more than profit-driven enterprises. The failure of the Labour Mayor of London to actively oppose the policy also illustrates that marginalised communities may never be able to rely on Labour to defend their rights in the present xenophobic political landscape.

However, the events surrounding the quashing of the policy also demonstrate a positive alternative narrative. Where activists, lawyers, and academics have been able to work together in a spirit of solidarity with an oppressed community they have been vastly more effective than they otherwise may have been. It is to be hoped that further close cooperation between these groups will be able to bring individuals in the Home Office to account for their actions, and will also be effective in other areas of work: this is socialist lawyering in practice.

● Those wishing to learn more about the complicity of St Mungo's, Thamesreach, and CGL may wish to read Jean Demars' report for the Strategic Legal Fund at *https://bit.ly/2ufWUAe*. The Public Interest Law Unit can be reached at *www.pilu.org.uk*

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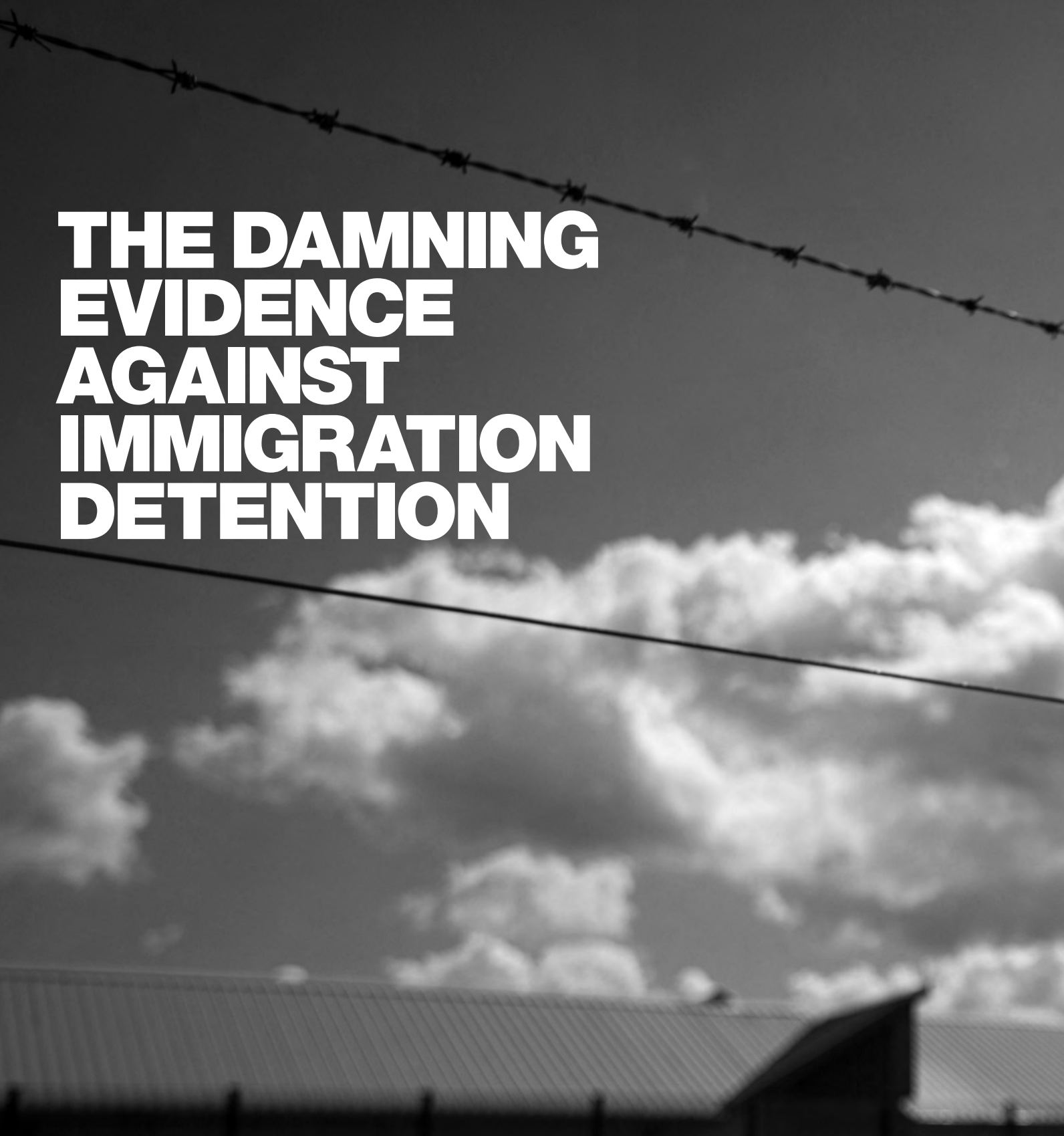

THE DAMNING EVIDENCE AGAINST IMMIGRATION DETENTION

Rona Epstein exposes the shocking reality that thousands of vulnerable people seeking shelter in Britain today are being welcomed with a prison cell.

Every year more than 30,000 people in the UK enter immigration detention. They are detained without any time limit. They are not detained as part of any criminal sentence but are held for administrative convenience. Detention is optional: the decision can be taken by a relatively junior caseworker at the Home Office and is not subject to automatic judicial oversight. At any given time between 3,500 and 4,500 individuals may be held in immigration detention facilities and prisons under immigration powers across the UK.

The largest category of immigration detainees is persons who have sought asylum at some stage during their immigration processes. In 2016, asylum detainees accounted for about 46 per cent of people entering detention.

The charity Women for Refugee Women (*www.refugeewomen.co.uk*) has published a research report, *We Are Still Here*, which shows that the government's policy (which should ensure that vulnerable people are not detained) is not working. This article will look at that report in the light of other research: an earlier large-scale University of Cambridge study on the criminalisation of migrant women; research by Medical Justice on segregation and mental ill-health among immigration detainees; and Detention Action's report on alternatives to the detention of asylum seekers.

Picture: Jess Hurd / reportdigital.co.uk

On 4th September 2017 the BBC broadcast a *Panorama* investigation into Brook House, an immigration centre run by the private security firm G4S. The film showed shocking abuse of inmates held in appalling conditions; nine G4S employees were suspended following the broadcast. G4S has since dismissed six members of staff at the centre and a number of other staff have also been disciplined. Yarl's Wood is an immigration centre which holds 300 people, most of them women. In June 2017 the Prisons Inspectorate inspected the centre. The majority of women held there are later released into the community, which, said the Inspectorate, 'raised questions about the justification for detention in the first place'. Inspectors also raised concerns over the continued detention of women who had been tortured and two responses where the Home Office had refused, without explanation, to accept that rape came within the legal definition of torture. A study of a sample of Rule 35 cases (Rule 35 is a mechanism which aims to ensure that particularly vulnerable detainees are brought to the attention of those with direct responsibility for reviewing detention) 'indicated that women were being detained despite professional evidence of torture, rape and trafficking, and in greater numbers than we have seen at previous inspections'. Opposition politicians said the system fails the women at Yarl's Wood, and that the detention system is 'inhumane and unnecessarily harsh'.

The research

Medical Justice's report *A Secret Punishment: the misuse of segregation in immigration detention* revealed that between 1,200 and 4,800 immigration detainees are segregated each year. There is little central monitoring of the use of segregation. Despite repeated damning critiques from the prison inspectorate and independent monitoring boards, the >>>

>>> over-use and misuse of segregation continues in removal centres across the UK.

Professor Loraine Gelsthorpe and Dr Liz Hales of the University of Cambridge undertook a large-scale research project on the criminalisation of migrant women between May 2010 and November 2011. Their study of migrant women in prison and the immigration holding estate in the South-East of England shows how those seeking asylum, those who have been the victims of trafficking and those migrating to improve their and their families' life chances fare in the UK. Many of these vulnerable women are likely to find the UK border system hostile, baffling and hard to negotiate:

The British Medical Association published its report *Locked Up Locked Out: health and human rights in immigration detention* on 4th December 2017, detailing a number of concerns about the running of immigration removal centres (IRCs). The report calls for IRCs to be phased out and replaced with a more humane system of community monitoring because of concerns about the serious impact on the health of detainees. These include restraint, segregation and poor management of post-traumatic stress disorder and other complex health conditions. The BMA published the report, it says, because of its growing concern about health and human rights of detainees and it calls for a 'fundamental rethink' by the Home Office.

Women for Refugee Women's researchers interviewed 26 women who claimed asylum and were detained in Yarl's Wood. They found that the Rule 35 protection is not working. As one detained woman put it: 'there are many vulnerable women in Yarl's Wood – we are still here'. The research found:

- Eighteen women (70 per cent) said their physical health had deteriorated in detention;
- Survivors of sexual and gender-based violence are routinely being detained;
- Twenty-two women (85 per cent), who had claimed asylum and been detained since the Adults at Risk approach came in, said they were survivors of sexual or other gender-based violence, including domestic violence, forced marriage, female genital mutilation and forced prostitution/trafficking;
- Women who were already vulnerable as a result of sexual and gender-based violence became even more vulnerable in detention;
- All the women interviewed reported that they were depressed in detention, and 23 of the 26 women (88 per cent) said their mental health had deteriorated while they were detained;
- Twelve of the women interviewed – almost half – had thought about killing themselves in detention, and two women said they had attempted suicide, both on more than one occasion;
- Survivors of sexual and gender-based violence are being detained for significant periods of time. The lengths of detention for the women interviewed ranged from three days to just under eight months. The vast majority, 23 out of 26, were in detention for a month or more. 19 of the women interviewed had been in detention for three months or more; and
- Figures obtained by the researchers indicate that, under the 72-hour time limit, the number of pregnant women detained has fallen noticeably. However, pregnant women are still being detained unnecessarily.

The interviews with the women detained since the Adults at Risk policy came in have revealed some key problems with the new approach. There is no screening process that identifies if someone is vulnerable or 'at risk' before they are detained, and survivors of sexual and gender-based violence are being detained before any attempt has been made to find out about their previous experiences.

Survivors are not believed when they disclose their previous experiences. They find it difficult to produce supporting evidence that the Home Office will accept. Academic researchers found this too: 'Second-hand Emotion? Exploring the Contagion and Impact of Trauma and Distress in the Asylum Law Context' by H. Baillot, S. Cowan, V.E. Munro in the *Journal of Law and Society* (2013) reveals how applicants for asylum recount their experiences of fear, trauma, violence and persecution during the process of claiming asylum and how these narratives are received by immigration officials.

The Women for Refugee Women research found that even when asylum seekers obtain evidence that the Home Office accepts, survivors of sexual and gender-based violence are kept in detention. Even when their mental and/or physical health is clearly deteriorating, and they are becoming significantly more vulnerable, they remain in detention. The report concludes that there are steps that the Home Office should take immediately to ensure detention reform (as was promised following the earlier review by Stephen Shaw). The government should:

- Implement a proactive screening process to ensure that survivors of sexual and gender-based violence, and others who are vulnerable, are identified before detention;
- Implement the presumption against the detention for survivors of sexual and gender-based violence and other vulnerable people;
- Introduce an absolute exclusion on the detention of pregnant women;
- Introduce a 28-day time limit on detention;
- End the practice of detaining people while their asylum claims are in progress; and
- Implement a monitoring framework and an accountability mechanism for detention reform.

The Women for Refugee Women report argues that the government should also start moving away from a system in which detention is central, towards a different type of system altogether. Community-based alternatives to detention, focused on support and engagement, are more humane and far less expensive than detention.

Case studies

Two recent cases illustrate the harsh treatment that vulnerable migrant women face. In *SXH v Crown Prosecution Service* [2017] UKSC 30 the appellant was a refugee from Somalia. She and her family suffered severe violence from majority clans: both her mother and father were murdered and she was raped and severely beaten. In December 2008 she fled to Yemen. A year later she traveled to Holland. On 27th December she flew to the UK on a false passport. She was challenged by the UK Border Agency on arrival and immediately claimed asylum. She spent six months in custody before being released and granted asylum. She brought proceedings against the CPS, which failed. The Supreme Court unanimously dismissed the appeal. Lord Kerr said:

"I reach the decision that the appellant must fail in her appeal with regret. This woman, in her short life, has had to endure experiences of the most horrific nature […] It is not the least surprising that she had to resort to the subterfuge of false papers in order to secure the measure of safety which she believed that this country would afford her. It is sad that her terrible circumstances were compounded by her incarceration when she was vulnerable and defenseless".

Most of us would use stronger words than 'sad' and 'regret'. Why was this extremely vulnerable woman imprisoned? Where was the respect for basic human rights? Why did the Supreme Court did not realise that, in Lord Kerr's words 'continuation of the decision to prosecute beyond the time that it should have been recognised that [SXH] had an answerable defence […] constituted an interference with [her] freedom of liberty under article 5 of the Convention and article 8 rights.'? Surely those Convention rights should be at the forefront of judicial thinking?

In *R v Assia B* [2016] EWCA Crim 1477 the Defendant was charged with three offences, and pleaded guilty to one: possession of an identity document with an improper intention. She was sentenced to ten months' imprisonment. She came to the UK on a student visa, and while in the UK she was raped. When her visa expired she was terrified of returning to Algeria due to the stigma attaching to her status as a victim of rape. She obtained a Portuguese passport and used that false passport to obtain employment. She was arrested, charged and remanded in custody for one month, then released on bail subject to an electronically monitored curfew. By the time of her trial at the Crown Court her circumstances had changed: she had married a naturalized British citizen and she was pregnant, due to give birth a month after the hearing date. The court was told of her health difficulties, including asthma and a pulmonary embolism. The recorder was asked to adjourn the hearing for a pre-sentence report, but refused. Assia B. had no previous convictions. The recorder said that she could have applied for asylum in the UK and considered that the circumstances of the offence were too serious to allow anything other than immediate imprisonment. Two weeks later her case came before the Court of Appeal.

The Court of Appeal received medical reports indicating that Assia B's health difficulties continued during her time in prison, and a pre-appeal report that the stress of imprisonment was having a negative effect on 'this vulnerable young woman'. The report recommended that there were exceptional circumstances that would justify a suspended sentence: this was an isolated offence and there was nothing in Assia B's attitude, lifestyle or circumstances to indicate a risk of further offences. The Court of Appeal ruled that in view of the pregnancy and health difficulties it was right to suspend the sentence of imprisonment and quashed the sentence of immediate imprisonment, substituting a suspended sentence of six months' imprisonment suspended for two years.

The Court also commented on the judge's refusal to get a pre-sentence report:

'We also consider that the Recorder was somewhat precipitous in moving to sentence without the assistance of a pre-sentence report. She plainly thought that immediate custody was an inevitable part of the sentence and a pre-sentence report would therefore serve no purpose. In our view, though, that conclusion was not so obvious and a pre-sentence report would have been useful. Even if the Recorder, or a subsequent judge was to conclude notwithstanding the report that immediate custody was necessary, it would still have served some purpose to have that report accompanying the defendant when she was remanded.'

This case is an illustration of how harshly the courts can deal with vulnerable women. It was exactly the sort of case in which a custodial sentence could and should have been be suspended (see P.Ahluwalia and R.Epstein 'When should a prison sentence be suspended?' (2017) 181 JPN 13). The Court of Appeal later rectified this, but the trauma of imprisonment had already been inflicted. There must be many people in comparable position who have not been able to secure a successful appeal.

Conclusion

People who have suffered bereavement and brutality, conflict and natural disaster, and who seek shelter in the UK, are welcomed by a prison cell. The research reported on in this article underlines the need for a new approach which respects human rights. We should demand radical reform.

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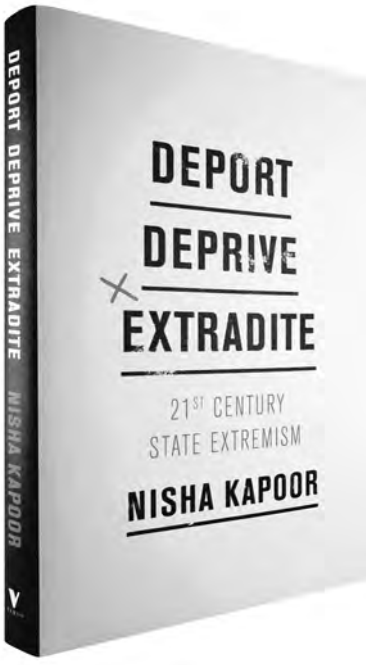
Pictures: Jess Hurd / reportdigital.co.uk

Deport, Deprive, Extradite: Twenty-first Century State Extremism by Nisha Kapoor, Verso Books, hardback, £16.99, 240 pages, February 2018, www.versobooks.com/books/2551-deport-deprive-extradite



Nisha Kapoor has written a compelling and important book. With forceful academic rigour she rightly starts from the actual experiences of the people affected. They have often been the victims of appalling inhumanity for no reason at all, and with drastic consequences for themselves, their friends and their families. She succeeds in revealing how this sharp-end deprivation of liberty has enabled governments to legitimise much more widespread lower-level breaches of human rights.

But for the individuals documented here, words are almost always unable to convey the wrongs perpetrated. Long periods of incarceration as Category A prisoners were followed by extradition to the United States. Some were based on mistaken identity: simple factual errors which, in reality, were escalated by state responses to perceived or actual acts of terror which were nothing to do with those arrested. It was just a case of 'round up the usual suspects' – and when charges were dropped or the suspects released there was next to no publicity or recompense.

Some 400 yards from where I live in Longsight, Manchester, a cafe was subject to a dawn raid. The 'conclusive proof' that the owners were going to blow up Old Trafford during the forthcoming United-Liverpool match was that of tickets displayed on their wall – except they were souvenirs from the fixture some years before. But the cafe never opened again.

Kapoor writes about the 'North West 12', in whose campaign for justice I was also involved. These were largely Pakistani students swooped upon after Gordon Brown's panicked response when security papers were inadvertently filmed by paparazzi outside Number 10.

They turned out to be young lads who played cricket with the local Liverpool team, ate in Indian restaurants in Manchester (significantly it seemed at one point that they chose an Afghan restaurant in Rusholme), and some were working as security staff in B&Q while studying for their accountancy exams. Accused of seeking to blow up airports or the Trafford Centre (one had shown his family around that paradigm of consumerism on a recent visit), the stories of the 12 exposed just how bizarre the 'security' operations in the UK have become, thanks partly to the increasingly large role of private security firms. In the case of one of the 12, as it became clear that the terrorism charges wouldn't stick (even after secret courts and undisclosed 'evidence') it was the trivial matter of working more than the permitted hours in an overnight security job that led to his removal. It was the end of an otherwise promising career, and the 'terrorist suspect' label cast suspicion on him and his family.

If there is no smoke without fire, the 'fire' in the cases of most of the 12 was simply the smoldering ashes of an expensive education (which their families had saved up for years to give them, ruined by the authoritarian reflex to 'blame it on the Muslims'). For Abid Naseer the alleged plot to blow up Manchester was extrapolated by the US into an international terror campaign involving Norway and New York; the charges were dropped in the UK, but he was extradited on essentially the same evidence. He was sentenced to 40 years in prison in the US.

Picture: Jess Hurd / reportdigital.co.uk

Kapoor argues that the attacks on liberty reflects a growing authoritarian and securitising dehumanisation, based on a racist and imperialist frame of mind.

More recently, following the Arena bombing in Manchester, the police (and media) swooped on a shop two doors away from the Greater Manchester Law Centre in Moss Side. Every Libyan in the city was a target. There were no charges but the round-ups took place amid a glare of publicity – the police had actually been in through the back door of the shop the night before but staged a dramatic "raid" in the morning light for the benefit of the TV.

Kapoor's conclusion is both personal and analytical: that this reflects a growing authoritarian and securitising dehumanisation, based on a racist and imperialist frame of mind. She advises that we need to keep marching and protesting, as well as documenting and researching. There is an alternative to the practices of the 'War on Terror'. The Hillsborough families won (eventually) through an impressive campaign for justice against the state. Kapoor quotes Rafeef Ziadah, whose music responded to a hostile journalist asking why Palestinians brought their children up to hate: 'we teach life, sir'.

John Nicholson

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justice alliance

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Wednesday 18th April 7-8pm

outside the Ministry of Justice

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