Socialist Lawyer

Magazine of the Haldane Society of Socialist Lawyers **#80** October 2018 **£3**

Haldane Society of Socialist Lawyers

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

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Design: Smith+Bell (info@smithplusbell.com)
Print: Rap Spiderweb (www.rapspiderweb.co.uk)
Cover picture: Jess Hurd (reportdigital.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

Some of the 250,000 who protested in central London (on a weekday) against the visit of US President Donald Trump in July 2018.

Number 80, October 2018

When life imitates art

In the original BBC version of the political drama *House of Cards*, the second series (*To Play the King*, 1993) starts with a montage of shots of rough sleepers in inner cities. When I first saw it many years ago I thought it was a lazy framing device – a cheap and unmissable way of saying 'look: social problems have suddenly got dramatically worse'. But we can now see that distressing scene taking place before our eyes. It is impossible to deny the spike in rough sleeping, the explosion of very serious poverty and the obvious widening of holes in social protection. Life in this decade is imitating the art of 25 years ago,

The causes are fairly clear. It is now 10 years since the financial crash, which means we've had 10 years of wrong-headed and harmful public policy. In the legal sector that's perfectly represented by the tenure of Chris Grayling (though his successors have been little or no better). Grayling is an austerity politician *par excellence*. He has no economic nous, nor any understanding of his policies and their impact – he is just the yes-man of the austerity-driven Tory Cabinet. The legal sector shows perfectly how defunding public services simply pushes costs elsewhere, and does serious damage in its own right.

In this edition of *Socialist Lawyer* the articles reflect on the state we're in 10 years after the crash. In particular Don Beal – a campaigner with Positive Money – gives a fascinating and useful insight into the financial mechanisms that lead to economic crisis, and explains how to achieve meaningful banking law reform. Andrew Marlow looks at how the crisis manifests itself through housing and homelessness, and also applies a technical analysis to the indefensible phenomenon of rough sleeping.

Looking further back in time, after a lively and successful Haldane fringe event at this year's Labour Party conference we reflect on the 1984 Battle of Orgreave and renew the call for a proper inquiry into the deliberate attempt by the state to violently suppress working class organising. Also, Hamburg-based lawyer Klaus Dammann explains the attempts by German governments to ban left-wing political activists from public sector employment.

As a counterpoint to that state oppression we are also delighted to feature the work of Migrants Organise, who are achieving wonderful and necessary things to support people who have recently arrived in the UK. We also feature two particularly poignant reviews – one on Norman Finkelstein's new book on Gaza, and the Institute of Employment Rights' blueprint for restoring labour rights in the UK.

Nick Bano, editor,
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Tories' flawed housing plans show they are weakened

The government green paper issued in August, 'A new deal for social housing', comes against a background of failure. Since 2015, this government's one major piece of housing legislation, the Housing and Planning Act 2016, has disintegrated under campaign pressure.

This green paper includes two further climbdowns on the 2016 Housing and Planning Act. It will scrap the law that threatened to force councils to sell off higher value homes, or pay a levy. And Councils will not, for the time being, be forced to give new tenants Fixed Term (two year minimum) tenancies instead of permanent secure tenancies – though ministers want to come back to this.

This shows a weak government desperately trying to change its reputation. But it does not offer the real action needed to make a difference.

In 74 pages of talk about the importance of council housing and housing associations and the need to respect tenants, there is little of substance, and no commitment to the direct investment needed to produce the 'new generation of council homes' the prime minister says she wants.

The paper covers five main areas: 'Safe homes – including maintenance, repairs and decent homes standards'; 'Responding to tenant and leaseholder complaints and resolving disputes with landlords'; 'Regulation, inspection and making residents' voices heard'; 'Ending stigma for tenants'; and 'More council and housing association homes'.

Picture: Jess Hurd / reportdigital.co.uk

London Renters Union protest in August at the Resident Landlords Association conference discussing the 'increasingly hostile environment for landlords'(!)

It includes five main threats that tenant campaigners reject.

- Performance indicators and an 'easy comparison' table of landlords with a 'friends and family' test. Instead tenants want clear and absolute rights and standards they can hold landlords to, and more say in enforcing these.
- The language of 'more choice' by comparing services is false. This would give more power to government and regulators (who set the agenda and choose indicators);
- Financial penalties on landlords to deter bad practises would punish tenants and leaseholders and threaten more privatisations, takeovers and mergers. These do not improve landlord services, but generally make them more remote, while undermining tenants' voice and rights;
- To increase truly affordable, non-market rented homes is vital, and requires direct investment through grant, requiring councils to build homes for council rent. Housing associations should only receive public funding if they build homes to meet local housing need, if they recognise and work with independent tenant organisations and are democratically accountable.
- Money raised from Right to Buy receipts should be returned to councils and ring fenced for council housing investment – it should not be used to build more shared-ownership and unAffordable Rent homes.

Safe homes

The paper claims councils have been 'fully funded' to do the necessary fire safety work. In fact the £400 million of funding is not enough to cover all the work needed, and is being cut from the rest of the housing budget. Government deregulation measures and underfunding created this danger, and government must bear the cost of correcting it.

Tenants want full funding for all the necessary fire and other safety works, to large panel systems and others, to bring all homes to safe standards. This must be in addition to, not taken out of, existing housing budgets.

Ministers have since announced a ban on flammable cladding, which it seems is not a complete ban, according to the Fire Brigades Union. Partial measures and posturing are dangerous and unacceptable.

Complaints, disputes

The paper says 'residents should have a stronger voice to influence decisions', a good complaints process and redress. But it doesn't propose anything that would make this happen.

Residents die when landlords don't listen. Tenant-led inspection, reporting and scrutiny are key.

The paper proposes new performance indicators to 'compare the performance of landlords'. How does it help tenants in east London to know that a Yorkshire landlord is better at gardening?

Introducing landlord league tables will waste millions of pounds to create extra layers of bureaucracy and form filling, without improving or building one home.

July

'My wife is Japanese'
says new Tory foreign minister Jeremy Hunt on his official trip to China...
'Sorry, my wife is Chinese.'

19: Parliament's Joint Committee on Human Rights published a report criticising the government for the 'legal aid deserts' that have resulted from the cuts to legal aid since 2012, leaving many people unable to access justice.

Regulation
Regulation must meet minimum absolute standards agreed by tenants. Tenants and leaseholders must be part of any inspection process, to expose any failings and improve these.

An Ofsted-style inspectorate and league tables would be used to further privatise, outsource and deregulate services. Ministers' true intention is revealed when they refer to a 'new stock transfer programme' under the guise of 'empowering residents'.

Stigma
For decades, government policies have cut services and undermined building standards and regulation. The acute shortage of housing, the Bedroom Tax, other benefit cuts and accusations that tenants are 'subsidised' 'scroungers' have created the stigma on tenants that ministers now claim to care about.

Government has for decades siphoned off money from council rents: this needs to be refunded, and the false 'historic debt' lifted from council housing, to invest in existing and new first-class, energy efficient homes for council rent.

More council and HA homes
We need to decisively reject privatisation and firm up commitments to invest in council housing, including fully funding safety works. Truly independent, properly funded, tenant organisations are vital for rebuilding the trust lost before and since Grenfell. And all public land must be ring fenced for use to build council homes to meet local housing need; 50 per cent ratio for other private development sites.

Eileen Short, Homes For All, *info@axethehousingact.org.uk*

20: The Commons Justice Committee releases a damning report on disclosure failings by the Crown Prosecution Service, blaming insufficient focus and leadership.

Ken Loach's film shows how people are forced to fight the bureaucratic forces of the system in order to receive benefits.

Law reform, digitisation and the Daniel Blake phenomenon

The 2016 film *I, Daniel Blake* highlighted the issues surrounding accessibility of legal rights. It is about a working-class carpenter who suffers a heart attack and must navigate through an unnecessarily complex benefits system. It represents the lived experience of many people, who face financial sanctions by the Department for Work and Pensions. Often these are vulnerable people. Many lawyers relate to this scenario, having heard the stories of their friends, families, colleagues or clients if they haven't faced it themselves.

To claim welfare benefits people are made to queue, asked invasive personal questions and may be blamed for their circumstances. People with disabilities are made to attend assessments to access their benefits. If they miss an appointment, regardless of the reason, their benefits may be cut or stopped. They then must sit down and type out personal details on a public computer. These are online forms. Paper forms are difficult to get and filling them in is even more challenging. But beyond benefits, there is increasing digitisation and bureaucracy in legal proceedings in general. How does that affect justice?

In almost all legal proceedings fees have increased for applications. Rights at work and access to benefits may be restricted. For those without a lawyer civil and criminal procedure rules can be completely daunting and unclear, and the availability of legal advice is increasingly restricted.

The government's view in 2012 was that "legal aid too often encourages people to bring their problems before courts, even when they are not the right place to provide good solutions, and sometimes for litigation that people paying from their own pocket would not have pursued". A more recent review (The Bach Commission) disagrees, saying that the government's current system for legal aid provision is skewed towards the use of the courts system, regardless of the fact that it would be cheaper to advise earlier on straightforward matters. Criminal defendants have to show that they need legal aid because it is in the 'interests of justice'. They must also to contribute to the costs of their own defence. Someone earning more than £17,000 may not get legal aid in a magistrates' court. In the Crown Court, after their contributions towards defence costs have been taken into account, they may end up with only about half the amount they need to cover living costs.

Digitalisation has also led to exclusion because it leads to problems with access to the law. Without professional advice or technical competence, many struggle to use digital systems.

The government is also closing courts, and digitalisation is often a basis (or pretext) for doing so. Also, there are no counter workers in county courts and there was a failed attempt to introduce IT for possession hearings around 2014. More people must travel longer distances and absorb costs that used to be borne by the state to access legal recourse. This will particularly affect older people and rural communities.

The justice system is unable to respond to existing technology. E-filing documents at court is far from problem-free. Video links raise confidentiality issues: internet connections and facilities are not always secure, and a feeling of isolation means clients are less likely to share relevant facts if they are filmed rather than face to face. The government's purpose-built online system for applying for legal aid (the Client and Costs Management System (CCMS)) is riddled with errors, and requires time and specialist knowledge (which restricts access to justice).

Further, there is a big problem of access for people who are not citizens. People without a a >>>

>>> right to reside may struggle since they may be unable to access legal aid and private practice costs are high.

In the field of immigration practice, serving on the parties requires claimants to bring copies to the tribunal. The Courts indicate that submissions may be made online, but this is not immediately available. Most applicants are unable to leave their daily responsibilities to deal with these administrative burdens. This then leads to delays in case processing and unless applicants have professional help they might lose a straightforward case. This is particularly concerning for asylum seekers who must often contend with trauma. Those in detention centres may be detained indefinitely, and sometimes they can only attend their hearing through teleconferencing facilities. Often these are of poor sound quality. Courts are often busy and the burden on facilities means that others could be present during confidential conferences.

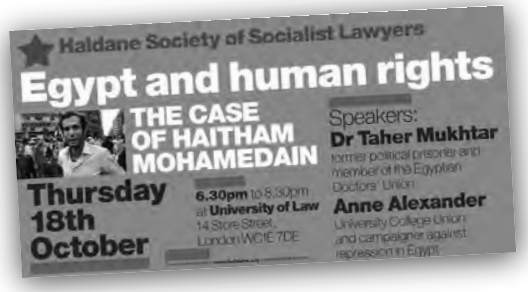
Added to this is the frequent need for interpreters. Interpretation is difficult even face-to-face. Interpreters are not always heard and there is often no one to check if the interpretation is accurate.

In *Pyrrho Investments Ltd and another v MWB Property Ltd and others* [2016] EWHC 256 (Ch), the use of predictive coding in electronic disclosure was judicially approved for the first time in a reported UK decision. This has the potential to assist with litigation disclosure. However, disclosure is expensive and allowing a computer to be responsible for ensuring justice may not always be inappropriate. The quantity of documents already being served on legal professionals can be considerable (one practitioner said that she had been served 10,000 pages of disclosure at 18:00 in the middle of a trial only because she took the initiative to ask), and computers may need to keep the pace.

Digitisation has as positive objectives reducing the use of paper, cutting costs, making systems easier and faster to access and allowing for those unable to travel to access justice. In reality, though, it has not been fully implemented and access to justice has been reduced. Many courts do not receive documents by email and require payment. Applicants who have video links to court hearings are often dissatisfied with their ability to understand what is taking place. The cuts and closures of the courts and the automation of the legal sector are methods by which privatisation of the legal system, which should be a pillar of justice, is being compromised.

Debra Stanislawski (adapted from a paper delivered on behalf of the Haldane Society to a conference of the Syndicat des Avocats de France in Paris in October 2018).

The cuts are deadly.



The Egyptian socialist lawyer battling for human rights

On 18th October the Haldane Society hosted Dr Taher Mokhtar, a former political prisoner and member of the Egyptian Doctors' Union, and Anne Alexander, University College Union member and co-editor of *Middle East Solidarity*, for the first talk in this season's human rights lecture series. The event considered human rights in Egypt, through the lens of the case of Haitham Mohamedain.

Haitham is an Egyptian labour lawyer and political activist who, since the Egyptian revolution in 2011, has been detained many times for his political activism. He is a labour lawyer and revolutionary socialist who has frequently represented workers arrested during strikes, or who have faced accusations in the administrative courts from their employers. In 2008 he played a central role in defending textile workers from the industrial town of al-Mahalla al-Kubra who were arrested following an attempted strike and popular uprising in the city which is widely seen as a dress rehearsal for the revolution of 2011.

During the rapid growth of the independent unions during the revolution he acted as legal counsel to many of the new unions representing health workers, rail workers, bus drivers,

July

23: The home secretary Sajid Javid decides against seeking assurances from the US that two British Isis fighters would not face the death penalty, tacitly dropping the UK's blanket opposition to capital punishment.

'I am not going to play that game.'
Tory environment secretary Michael Gove refuses to condemn Hungarian anti-semitic Prime Minister Viktor Orban.

31: Government officials in the Home Office 'materially misled' the High Court during a judicial review challenging the treatment of child refugees. The Court of Appeal overturned the High Court's ruling that the government had acted lawfully in light of the 'incomplete picture' that the court had been given.

August

19: HMP Birmingham became the first privately run prison to be taken over by the government after G4S' management was condemned by the Independent Monitoring Board.

Picture: Hossam el-Hamalawy / CC BY-SA 2.0

Egyptian lawyer Haitham Mohammadein – text to go here

steel workers, and textile workers. He was detained previously in 2013 and 2016, and arrested for a third time in May 2018.

A few days before our lecture the judiciary had ordered Haitham's release from prison, but despite this, Haitham remained arbitrarily imprisoned, having been transferred to a police station from prison ostensibly in preparation for conditional release. The charges against him have not been withdrawn by the prosecution, and on release he will be required to sign on at the police station on a daily basis. Haitham's charges include inciting protest against the rise in public transport fares, something which is not in fact a crime. Indeed, there is no evidence that he did in fact participate in or call for protests on the occasion alleged; it appears that the prosecution is entirely driven by his status as a well-known defender of workers' rights and as an activist for social justice.

On 14th October, in a further crackdown, two more lawyers were arrested from their homes: Ahmed Sabry Abu-Alam and Sayed el Banna. They were subject to forced disappearance for 48 hours before appearing in the custody of State Security. The two are well-known human rights lawyers who have represented many political detainees.

Nine other lawyers have been sentenced in a case involving 24 people who have been accused of 'insulting the judiciary'; two are already in detention, Mohammed Monib and Muntaser al-Zayyat (who was a candidate for the presidency of the Egyptian Lawyers' Union). The case illustrates the arbitrary nature of the judicial system in Egypt: the accused include well-known opponents of the regime such as former president Mohamed Morsi, who is already in prison, and Mustafa al-Naggar, a former MP for the Justice Party. The use of vague, general charges is designed to intimidate critics of the regime, and . forms part of a crackdown on every lawyer or activist who is actively protesting against the regime, or supporting social struggles.

This assault on lawyers forms part of a wider attack by the regime on civil society as a whole. After the military coup in July 2013 the regime has taken more than 60,000 political prisoners. Forced disappearances are used in a systematic way by the regime. Torture is widespread. Murders by the police are commonplace, and are either denied by the police, or blamed on fabricated clashes with terrorists. This transparent abuse of detainees is used to intimidate others.

In addition, after the coup >>>

September

31: The Independent Office for Police Conduct found that South Yorkshire Police had detained six environmental activists on false grounds. The protesters (who were opposing tree felling in Sheffield) were wrongly held for a number of hours under an obscure anti-trade-union law passed by the Thatcher government.

'We were all misled on the existence of weapons of mass destruction (WMDs).' Gordon Brown says he was lied to about going to war in Iraq. Now see quote on page 9.

24: The Crown Prosecution Service has given training to its staff urging them to take a more 'risk-averse' approach to bringing rape charges in 'weak' cases, despite the woeful levels of prosecutions and convictions for rape and sexual assault.

26: Three environmental activists received prison sentences for anti-fracking protesting. They were given sentences of between 12 and 16 months' immediate custody at Preston Crown Court.

>>> led by Sisi there was a huge crackdown on freedom of speech, both in the broadcast media and social media. According to Reporters Without Borders, in 2016 Egypt had the fifth highest number of detained journalists on a global scale, after Turkey, China, Syria and Iran. There have been more than 500 websites shut from May 2017.

Dr Mokhtar himself was previously arbitrarily detained by the authorities. He was held in a cell four by five metres with 29 other people. This level of overcrowding is widespread in Egyptian police and prison cells. During the interrogation process, police tortured the detainees, threatened them with murder, and fabricated cases against them. Behind Dr Mokhtar's arrest was his campaign regarding provision of medical care in prison. Medical care is absent for the majority of prisoners, and it is common for prisoners to die from direct medical neglect. In addition, prosecutors regularly refuse to sign medical certificates agreeing that prisoners have been tortured. Confessions derived from torture are in most cases the only evidence presented against defendants in court. If people recant their extracted confessions, they are threatened with being returned back to be tortured again.

Foreign academics researching this area have become victims of forced disappearance, torture and extrajudicial killing. The most high profile example of this is likely Giulio Regeni, a Cambridge University PhD student from Italy, who was disappeared and murdered in January 2016 while carrying out research on the independent trade union movement in Cairo.

Pictures: Hossam el-Hamalawy / CC BY-SA 2.0

Haitham Mohammadein speaking to independent trade unionists in Ataba; and (right) at the start of the occupation in Tahrir in J

Notwithstanding the oppression, there is a constant bubbling of protest, often very small-scale and unreported, over social questions. The protest that Haitham was said to have incited was itself on a small scale, but the reaction of the regime shows how terrified it is about small protests turning into large scale revolts.

Despite its blatant abuse of human rights, the Egyptian regime has received considerable support from the West since its takeover of power. From its outset, the coup against the democratically elected civilian government received explicit Western backing. The military has since been consistently supported by arms sales and economic investment from the West, particularly the UK, France, Germany, and the USA

In addition to military support, the UK and Egyptian governments have signed memoranda of understanding on cooperation in the areas of higher education and culture. Rather than enabling genuine academic collaboration, such agreements are driven by the foreign policy objectives of the two governments. For the Egyptian regime, investment by UK higher education institutions in new campuses or partnerships with Egyptian universities not only provides useful cover for its appalling abuses of academic freedoms, but generates lucrative real-estate deals which are likely to directly benefit some of the regime's core constituencies in the security apparatus and business elite. Such profit-driven deals are being facilitated by Universities UK, the body representing UK higher education employers, which organised a delegation of senior higher education managers to Egypt in June this year, despite a protest campaign which has attracted the support of hundreds of academics.

In Egypt social and economic struggles continue, although the independent trade unions which flourished just before and after the revolution in 2011 are now very weak and paralysed because of the level of repression. However, many activists consider the brutality of the regime to be a sign of its fear and lack of confidence, rather than its strength. It is terrified of a repeat of the revolution of 2011, and is attempting to stifle any attempt at protest. Indeed, it is even terrified of potential critics among the military elite, as the arrest of General Sami Anan illustrates.

September

27: The government appoints Helen Pitcher to chair the Criminal Cases Review Commission. Her previous role was chair of multi-billion pound Pladis Global (United Biscuits, Godiva, Ülker Bisküvi).

'Cut from prime ministerial cloth.'
French newspaper *Le Journal du Dimanche*'s surprising verdict on foreign secretary Jeremy Hunt(!)

October

1: The trial of the 'Stanted 15' – a group who took action to prevent the removal (by a charter flight) of LGBT migrants to countries where they were at risk – began at Chelmsford Crown Court. They have been charged with very serious offences for their action. The trial is ongoing at the time of publication.

5: BuzzFeed News reports that applications for legal aid in claims against the government were discussed by ministerial officials before being rejected.

uly 2011, brutally oppressed three weeks later.

A member of the military council which ruled Egypt between 2011 and 2012, Anan was detained in January 2018 when he announced his intention to stand against Sisi in the presidential elections. Sisi is also under pressure to deliver on the economic front, having put forward a vision of massive international investment, promising considerable economic improvements. In reality he has accelerated economically and socially damaging neoliberal austerity measures.

In order to continue to build opposition to the regime, there is a need both for opposition from inside Egypt, and opposition to Western government's complicity with it, and to remember that there is still hope for those in Egypt who we stand with when they are fighting for their rights.

Stephen Knight

'He may have abandoned them, but I don't think you can entirely, as it were, dump your past.'

Richard Dearlove on Jeremy Corbyn. He was boss of MI6 and responsible for intelligence on WMDs used to invade Iraq.

To repair our ailing public sector, we must reform labour laws

Carillion has collapsed, taking thousands of jobs with it; the government has been forced to take HMP Birmingham back under state control after G4S left it in a squalid and dangerous condition; chaos on the railways continues to disrupt daily life for millions across the UK. And the Chancellor's answer? A sticking plaster for the NHS and business as usual for everyone else.

2018 has been the year that privatisation catastrophically failed, but it is not that there were no warning signs. Report after report has found the poor working conditions associated with outsourced social care leave vulnerable people in danger; the government has been forced to bail out contractors across the public sector again and again.

There are two main problems with the management of public services as it stands – a lack of funding, and disinvestment into skilled personnel (itself driven by the need to grow profits while promising the state increasingly unreasonable operational costs). The Institute of Employment Rights argues that both of these problems can be resolved through the reform of labour law, as recommended in our latest report *Rolling out the Manifesto for Labour Law* (see review in this issue, page 37).

First, the reinstatement of sectoral collective bargaining across all industries will ensure fair pay and working conditions to all, regardless of their employer. This will be supported by new procurement rules that prevent the contracting out of work to any organisation that disrespects collective agreements, refuses to recognise a trade union, or has a history of blacklisting. If we must dish out taxpayers' money to private concerns, it is only right that we demand those taxpayers are treated ethically in return.

Most care workers are on zero-hour contracts.

Picture: Jess Hurd / reportdigital.co.uk

Second, the abolition of the three-tier employment status system that divides people in employment between 'employees' – who (eventually) have access to their full suite of rights; and 'workers' – who are offered merely scraps of fair treatment, such as holiday pay and the minimum wage. Most of the care workers we rely on to preserve the health and dignity of the most vulnerable in our society are on zero-hour contracts. There is no respect, no dignity, for them. By implementing a universal status of 'worker', we will guarantee that all people in employment have access to all of their rights from day one.

Last, to redirect funding to where we need it the most. The state is currently paying huge subsidies to employers who pay poverty wages in the form of state benefits. Most benefit recipients are in work, but still unable to cover the basic costs of living. With the higher wages guaranteed by collective bargaining, alongside the implementation of a Real Living Wage, these funds can be invested in providing good quality public services.

The Labour Party has backed *Rolling out the Manifesto for Labour Law* and has adopted our key recommendations. Now all it takes to resolve the public sector crisis is the political will to do so.

Sarah Glenister, Institute of Employment Rights (www.ier.org.uk)

1 million

The number of working people on zero-hours contracts in Britain today – up from 200,000 in 2000.

Helping to create community care for migrants

Migrants and refugees face a host of never-ending, constantly mutating problems. The media spews scandalous headlines, unconscionable cuts to the legal aid significantly deter vulnerable migrants from obtaining effective representation, and the government has an unwavering determination to make the UK a hostile or 'compliant' environment. But those of us who work with migrants know that in the face of all of these big, grand problems, it often becomes easy to forget and dismiss a seemingly trivial problem – and one that is universally experienced by migrants and non-migrants alike: loneliness.

Concepts like homesickness, culture shock and language barriers are now well-known. The NHS has pages dedicated to informing potential travellers about these problems and how to address them. Likewise, many universities have schemes to help international students to adapt into their lives in the UK months before they even arrive. Yet when it comes to vulnerable migrants and refugees, it is understandably difficult to prioritise problems like culture shock over the very real threats of indefinite detention, destitution and homelessness, or forcible removal to places where lives are at risk. As a result these 'small' problems are often overlooked, with many charities and organisations focusing all of their energies and resources largely (if not solely) on helping migrants and refugees to obtain the right advice and good representation.

However, as anyone who has ever dealt with the Home Office or any public authority can attest, the big, grand problems often seem impossible to solve. Careless decisions, fatuous reasoning and senseless conduct pervade the immigration and social welfare system, leading to what should have been easily avoidable delays and hardships, which inevitably, breed desperations and frustrations. This happens even with the right advice and representation. For someone who is going through the process, therefore, the main challenge is not necessarily being able to understand the immigration rules or the duties of the local authority, but often simply how to get through the process without becoming othered, isolated or alone.

> 'Careless decisions, fatuous reasoning and senseless conduct pervade the immigration and social welfare system.'

The distinctive feature of the Community Programme at Migrants Organise, therefore, as the name suggests, is its focus on creating a community for the migrants and refugees. The programme started as a mentoring scheme, created specifically to help migrants and refugees (whom we call members) to feel less alone in a new environment. The mentoring scheme matches them with a volunteer mentor, who can provide them with one-to-one emotional and personal support. They would meet at least once a week all around London. Many of the matches, however, would eventually develop strong relationships – our mentors would often contact us, and even other organisations, on behalf of their mentees when they faced a problem.

This was then supplemented by the various socio-educational classes and activities that we organise. These classes and activities are constantly changing, mainly depending on members' interests. Currently we have English language classes, a wellbeing class, a sewing group, a football group, a voice group and the recently added theatre group. The main aim of the classes and activities is not only to educate our members or provide them with new skills, but to provide them with a space where they can meet people who are going through similar problems. The flexibility of the classes and activities also allow some of our members to contribute to the community: our football group, for example, was started and coordinated by one of our own members.

October

6: Brett Kavanaugh was confirmed by the US Senate and sworn in as a Supreme Court judge. Kavanaugh made a number of demonstrably untrue statements during his confirmation hearings, in which he answered allegations of sexual assault and misconduct.

1,172 Number of super-rich given Tier 1 investor visas in 2014 – up from 211 in 2010 – redesigned in 2011 by Theresa May to attract rich foreign investors while introducing a 'hostile environment' to curb overall immigration.

£10m Investment sum needed to apply for indefinite leave to remain after two years in UK.

The same ethos of creating a safe and supportive space and community was maintained even as the Community Programme eventually expanded to offer welfare and legal advice and casework support. Unlike many other services, the Community Programme does not have a specific list of things that we help our members with (which, of course, makes funding applications a fantastically difficult). We help with claiming the NHS low income scheme and advising our members on registering for GP. We provide advice on all the different welfare benefits, assisting with requesting mandatory reconsiderations and even representing some of our members on appeal. We advocate for our members to local authorities on various issues involving housing and community care, and with the NHS on overseas charging issues. We give immigration advice, help to apply for exceptional case funding, refer our members to legal aid solicitors, help them raise a complaint against solicitors, and often assist with the progress of the case. We also help our members apply for various destitutions grants and apply for educational courses and volunteering opportunities. It is rare that we would turn down any request for help from our members, even if it's something as simple as helping them with their CV. There are, of course, a lot of issues which are beyond our expertise. But whenever we are unable to provide the advice internally, we would help our members find the support that they need and continue to ensure that they receive quality support.

In carrying our day-to-day work, we are also extremely proud of the warm and welcoming environment that, we believe, can be felt the moment someone steps into the office. We have a small office in Ladbroke Grove, which is often filled with our members and their families. No one at Migrants Organise has complete ownership of their desk or office, which means even our chief executive is sometimes evicted from her room when one of our members needs somewhere private for advice. We also introduce new members to all staff and volunteers, including those who are not working in the Community Programme.

As a result, many of our members often come to the office even when they do not have any appointments. When they attend classes, for example, they often still drop by the office to say hello to our caseworkers and even to our advising barrister. Some decide to volunteer at the office, helping with things like administrative matters, while some eventually become volunteer mentors themselves.

The holistic and intensive nature of the Community Programme, of course, has its downsides. We have a relatively small capacity and often have to refuse those who we think are eligible to receive help from other services. We accept referrals based on who would benefit from our approach the most, and this typically means vulnerable people such as single parents and those suffering from ongoing mental illnesses. The ongoing service that we provide also means that there is always a risk of some members becoming overly dependent, and continuing to return for help even years after their immigration issues are sorted and they have become settled in the UK. It therefore becomes a difficult balance of maintaining a flexible support, while ensuring that our members truly learn how to adapt to their new environment. We are therefore constantly learning from our experiences.

Virtually anyone who leaves their home will find it difficult to step in to an existing community, but migrants and refugees – those who need community support the most – face a particular struggle in finding it when they arrive in the UK. Migrants Organise supports migrants in building these vital networks to ensure they can face the difficulties that the state throws at them in safety, and surrounded by care and support.

Brian Dikoff is a legal organiser with Migrants Organise, see: *www.migrantsorganise.org*

8: The Court of Appeal ruled that a number of asylum seekers may have been unlawful by the government under the Dublin III regulations

$1.4trn
The increase in wealth for billionaires in 2017. 2,158 people own 8.9 trillion dollars!

10: The Supreme Court handed down judgment affirming the lawfulness of a bakery's refusal to make a cake saying 'support gay marriage'. While it would have been unlawful to discriminate against a gay customer, the court ruled that the bakers were not obliged to supply a cake with a message with which they 'profoundly disagreed'.

12: Despite the drastic cuts to the pay and conditions of almost all public sector workers, a government-commissioned review proposed a 32 per cent pay rise (almost £60,000) for senior judges.

International human rights in crisis: we're working on it...

Since the last issue of *Socialist Lawyer* there have been a number of important events in which Haldane members have participated.

Istanbul solidarity conference

On 7th to 9th September in Istanbul, at the building of the Istanbul Bar Association, the second international conference of solidarity with our Turkish comrades took place. It was entitled 'Dark Side of the Moon – The normalisation of the state of emergency and the situation of judiciary in Turkey' (the title comes from the legendary Pink Floyd album issued in 1973). ELDH (European Lawyers for Democracy and Human Rights) was one of the co-organisers.

The conference was very well attended, with a number of international speakers, including ELDH president and Haldane joint international secretary (with Carlos Orjuela) Bill Bowring. Bill's speech was entitled 'The crisis of the European Court of Human Rights in the face of authoritarian and populist regimes', analysing the excessive deference being shown by the Court to Turkey, Russia and the UK. The full text of his speech and others can be found on the ELDH's website, together with many photographs (there is more information on the Istanbul Bar Association's website as well).

September's Istanbul conference.

Istanbul trial observation

On Monday 10th September lawyers from Austria, Belgium, England, France, Germany, Greece, Italy, Japan, The Netherlands, and USA (about 30 altogether), dressed in their robes, observed the first day of the trial of our colleagues – lawyers from the People's Law Bureau – at the Heavy Penal Court in Istanbul. They are all members of our sister organisation ÇHD (Progressive Lawyers Association), among them the ÇHD President Selçuk Kozagaçli. Seventeen of them have been in pre-trial detention for almost 12 months, Selçuk for 10 months in solitary confinement. Selçuk was able to make a 90-minute speech as to the position of the defendants.

At the end of the week's hearing the accused were released on bail, but were promptly re-arrested. ELDH was represented by Michela Arricale, Bill Bowring, Nicola Giudici, Clemens Lahner, Fabio Marcelli, Dimitra Stavromitrou, Thomas Schmidt, and Maria Tzortzi. Other organisations represented were AED-EDL (European Democratic Lawyers), Avocats sans Frontières, Legal Team Italy, Lawyers for Lawyers, Fair Trial Watch, and the Berlin Bar Association.

International People's Tribunal on The Philippines

The International People's Tribunal on the Philippines, which delivered its judgment on 19th September 2018, was also a big success. It took place in Brussels, and was supported by ELDH and the International Association of Democratic Lawyers (IADL – Carlos is a member of its bureau). It received a lot of international attention, and was denounced by President Duterte. It concentrated on the extrajudicial murder of those said to be connected to drugs. President Duterte was convicted of human rights abuses.

October's large 'Appel de SOS-Méditerranée p

Haldane delegation at SAF in Paris

On Saturday 6th October a Haldane delegation composed of Debra Stanislawski and Bill

October

13: Anti-racist protestors disrupted a march planned by the far-right 'Democratic Football Lads Alliance' in Central London.

17: Recreational cannabis is legalised in Canada. The maximum amount of for people to have for personal use is 30 grammes. Government announces plans to pardon people with monor marijuana convictions, a victory for campaigners who argued that prohibition unfairly targeted ethnic minorities.

17: The anti-fracking protesters jailed in September had their sentences quashed by the Court of Appeal as they were found to be manifestly excessive. In the media questions were raised about sentencing judge (HHJ Altham) as his close family are believed to have business links with the supply chain to the fracking industry.

23: Far-right leader Stephen Yaxley-Lennon (known to his followers as Tommy Robinson) was allowed by the authorities to address over 1,000 supporters from a stage outside the Old Bailey after a hearing in his long-running contempt of court case.

...pour l'Aquarius' demonstration in Paris, supporting those in peril on the Mediterranean.

Bowring was invited to attend the executive committee meeting in Paris of the Syndicat des Avocats de France (French Lawyers Union – SAF – www.lesaf.org), which is a founder member of the parallel European Democratic Lawyers organisation, AED, but with which Haldane and ELDH have close relations. SAF has branches all over France, commissions on a range of topics and specialisations, and has a splendid office and meeting room in Paris. Its motto is 'Avocats engagés, solidaires' (advocates who are engaged and in solidarity). About 25 members were present.

Debra made a presentation in excellent French on the crisis of access to justice and criminal defence in England and Wales, especially through the use of video transmission of defendants and witnesses. There were many questions. Bill had brought large numbers of copies of two issues of *Socialist Lawyer*, and also spoke ('in a kind of French which seemed to be understood').

In the afternoon Debra and Bill went with our SAF comrades to the Place de la Republique to take part in a large demonstration 'Appel de SOS-Méditerranée pour l'Aquarius', expressing solidarity and support to the many people in peril on the Mediterranean. There were several bands and drummers, numerous paper-sellers and stalls from the PCF, Lutte Ouvriére, the new Partie Anti-Capitaliste – just like home.

> "Syndicat des Avocats de France has branches all over France, commissions on a range of topics and specialisations, and has a splendid office in Paris."

Our SAF comrades will come to London for the January Haldane Executive. Maximum attendance is requested!

Forthcoming solidarity conference and ELDH Exec in Izmir

The Second International Human Rights Academy of the Aegean will take place at the Nesin Maths Village, Şirince, Izmir, Turkey, from 2nd to 4th November 2018, on the theme 'International Human Rights Regime in Crisis'. It is organised by ÖHD, Lawyers for Peace, an affiliate of ELDH. Bill Bowring, who spoke at the first HRAA last year, will be attending with Carlos Orjuela, both of whom will present a paper. The academy will be followed immediately by the Executive Committee of ELDH, which now has members in 21 European countries. Haldane was a founder member.

International Criminal Court and Palestine

On 5th to 12th December 2018 there will be the Assembly of State Parties of the International Criminal Court in The Hague. IADL are considering organising a side meeting at the Hague on Palestine, encouraging the prosecutor, Fatou Bensouda, to move from a preliminary examination into war crimes in Gaza to a full investigation. IADL are also trying to get as many individuals and organisations as possible signed up to their petition on prosecution of crimes committed against the Palestinian people (see the IADL website). Maximum participation is requested.

IADL Bureau in Lisbon, Congress in Algiers

There will be an IADL Bureau meeting in Lisbon from 30th November 2018 to 2nd December 2018 to prepare for the IADL Congress, which is held every four years – Haldane members have attended previous Congresses in Brussels, Hanoi, Havana, and Cape Town. The next Congress will take place in Algiers in 2019. Let's ensure that there is a big Haldane delegation!

Labour law conference in Germany in 2019

On 15th to 16th February 2019 European Lawyers for Workers ELW, ELDH and IG Metall (the biggest German trade union) are organising a conference on European labour law at the headquarters of IG Metall in Frankfurt am Main. The themes will be: new forms of labour; new corporate structures; and trade union and legal strategies. Speakers will include Haldane vice-president John Hendy QC. Participation will be free of charge for trade union members, students, and people without work. Trade union lawyers from Haldane are invited to participate in the preparation of the conference by Skype. If you are interested please e-mail Thomas Schmidt: *thomas.schmidt@eldh.eu*.

Bill Bowring

November

3: Hundreds of people in Liverpool prevented a far-right rally in the city, with many of the so-called 'Frontline Patriots' having to get trains straight home as they were unable to leave the station.

25: Millionaire retailer Philip Green was revealed to have been accused of bullying and sexual harassment. A member of the House of Lords named Green using Parliamentary privilege as Green had obtained a privacy injunction to prevent the media from naming him.

'If I ever got impeached, the market would crash, everybody would be very poor.'
Have a wild guess...

28: Brazil votes for far-right presidential candidate Jair Bolsonaro, who will assume office in January 2019.

Rosalee Dorfman Mohajer reports from our fringe meeting at the 2018 Labour Party conference

Demanding truth and justice for Orgreave now

Both the Labour Party Conference and 'The World Transformed' (a festival organised to run alongside the conference by the grassroots Momentum group) were buzzing with excitement, with ideas flying about creating a fairer society. The Haldane Society's fringe event to the Labour Party Conference, 'Orgreave, the miners' strike and political policing', also left its participants fired up and inspired to join the campaign for an inquiry into the 1984 police attack on picketing miners at Orgreave during the miners' strike.

Chaired by Liz Davies, one of Haldane's vice presidents, the star-studded panel comprised Shami Chakrabarti, Richard Burgon MP, Mark George QC, Chris Peace and Neil Findlay MSP. All called for an immediate inquiry into the events of 18th June, 1984, and the police cover ups that followed, in order to establish the truth of what occurred and the systemic lessons that must be learned to prevent similar incidents in the future.

The National Union of Mineworkers' (NUM) year-long strike started in March 1984 in response to the National Coal Board's initial plans to close 20 pits (although the board later decided to close many more than this). On the morning of 18th June that year, pickets arrived en masse at Orgreave with the aim of disrupting the supply of coke (a fuel made from coal) to Scunthorpe. The police encouraged people to congregate and guided them to the 'topside' of the plant. Without warning or provocation, the police lines opened and dozens of police officers mounted on horses charged up the field, with police on foot and suited up in riot gear running behind. All were armed with long truncheons and clubbed the picketers indiscriminately, causing severe injuries to some individuals. Some miners ran towards the town and others reacted by throwing stones. However, when the BBC later ran the story, the footage they broadcasted show these events in reverse order, giving the impression that the miners had provoked the police to charge.

Mark George QC analysed the events following Orgreave with precision and passion, in the tone of a particularly compelling jury speech. Ninety-five picketers were arrested, 50 were charged with riot and 45 with unlawful assembly. These were far more severe than the usual offences picketers were charged with during the miners' strike, and both offences carried a maximum sentence of life imprisonment at the time. After almost a year of waiting, the trial of 15 miners charged with riot began in May 1985, but the prosecution withdrew the charges 10 weeks into the trial.

Throughout the course of the hearings much of police witness evidence appeared to have been dictated by senior officers. In 2012 the BBC asked Mark George QC to review the evidence and he found clear instances of likely collusion. For example, 26 officers from four forces, involved in 14 separate arrests, all used the same three sentences (with occasional very slight modifications) in their witness statements.

If we want to understand the law under capitalism, Mark George said, the perfect example is Orgreave. >>>

Left: The meeting was chaired by Liz Davies, one of Haldane's vice presidents.

Above: Richard Burgon MP, Labour's shadow secretary of state for justice.

Below: Chris Peace, Neil Findlay MSP and Mark George QC.

Pictures: Jess Hurd / reportdigital.co.uk

"Shami Chakrabarti gave 10 reasons for an inquiry, lamenting the deliberate militarised tactics of the state against its own people. The case, she said, is indicative of the legal system failing to hold the state to account. The impunity of the state's actions will continue if we do not have an inquiry."

Shami Chakrabarti, Labour's shadow attorney general, pledged to reinstate an inquiry into Orgreave.

>>> For Mark George and the other panellists, Orgreave was political (and ideological) policing writ large. Without a public inquiry it is unlikely that we will know about the planning and extent of any political backing and police collusion that led to the Battle of Orgreave, the arrests and the trial. We are now 34 years after the events in Orgreave – how long will the British public have to wait to have an inquiry?

Shami Chakrabarti, shadow attorney general, and Richard Burgon MP, shadow secretary of state for justice, emphasised Labour's pledge to instate an inquiry into Orgreave, which was in the 2017 manifesto. Chakrabarti gave 10 reasons for an inquiry, lamenting the deliberate militarised tactics of the state against its own people. The case, she said, is indicative of the legal system failing to hold the state to account. The impunity of the state's actions will continue if we do not have an inquiry. The lack of repercussions for the South Yorkshire Police set the stage for the same force to engage in cover-ups following the Hillsborough disaster. In both instances the police blamed the public for their own misdeeds, and in both cases the legal system was willing to cover up injustice to protect its own.

Neil Findley MSP brought words of encouragement. Following his campaigning efforts for an inquiry into the miners' strike in Scotland, which caused a 'media frenzy', a petition and a debate in Parliament, there is now an independent review underway of the policing of the miners in 1984-5 in Scotland. His stories about his parents' direct involvement in the miners' strike were echoed by the panellists and participants. Richard

Mark George QC analysed the events following Orgreave with precision.

Burgon MP reminisced about sitting on his father's shoulders at pickets with the miners. For him, the miners' strike continues to give inspiration and a vision of solidarity.

The panellists debunked the reasons that Amber Rudd, the then Home Secretary, gave on 31 October 2016 when she announced that there was no need for an inquiry into Orgreave (it was a long time ago; no one died; the police have learned lessons; and, due to the lack of convictions, there was no miscarriage of justice). Richard Burgon MP called the inquiry a historic debt we owe to those who were beaten, wrongly accused and on strike for the year. The panel also drew attention to the police's apparent ability to continue to act with impunity. The same police tactic of kettling and then charging at protesters was used during the demonstrations at the G20 summit in 2009, which led to the death of Ian Tomlinson.

Without an inquiry we will have no truth and no justice, and the campaign will not rest. This was the resounding call of Chris Peace, the Orgreave Truth and Justice Campaign organiser, councillor and prospective Labour parliamentary candidate for North East Derbyshire. She called upon the participants to join the campaign and apply the pressure onto Home Secretary Sajid Javid to encourage him to establish an inquiry. In addition, she encouraged people to lobby Labour councils to pass a motion requesting that central government set up an Orgreave Inquiry.

In the question-and-answer session an 18-year-old woman spoke about how her grandfather was on the picket lines. Learning about the injustices committed by the state at the Battle of Orgreave inspired her to become a socialist. One man from Nottingham shared his experience of being one of the 7,000 miners on strike. A repercussion for his participation was the loss of his pension, earned after 33 years of labour in the mines. Another former miner spoke about how the bail conditions at the time were explicitly political. Often they banned the accused from picketing anywhere in the UK.

A woman spoke about her participation in the recent UCU pension strike, which spanned 14 days. She reflected about the contrast between how the professors were treated civilly during their strike but when the cleaners went on strike, demanding to be brought in-house, they were treated as criminals. The majority of the cleaners were migrants. She showed her solidarity with the striking cleaners and encouraged others to do the same.

We need an inquiry to have an official record of the truth of what happened at this pivotal turning point of the miners' strike and why. It's clear that the tactics, the unlearned lessons and the injustices of Orgreave are alive in our current policing; the fight for an inquiry is a fight to prevent history from being repeated.

Bolsonaro

by **Hannah Webb** and **Raquel Nunes Palmeira**

The Trump of the tropics

Jair Bolsonaro was elected President of Brazil with 55 per cent of the vote on 28th October, defeating the Workers' Party candidate Fernando Haddad, and will take office on 1st January 2019. Bolsonaro and his political allies are already laying the groundwork for his ascension to power. It is clear that his election will have a devastating impact across society, with politics and policies which will target the most marginalised. He will also cement his own power base, which lies within the three right-wing blocs in National Congress of 'Beef, Bible and Bullet' – agribusiness, evangelical Christians and federal deputies aiming to ease legislation around firearms. Many of Bolsonaro's hateful comments have been widely reported – that he would rather have a dead son than an openly gay son, telling a woman she was too ugly to rape, and advocating torture – and he has been referred to as the 'Trump of the Tropics'. >>>

Picture: R4vi CC-BY-SA-3.0

Women protesting against Bolsonaro in London in October.

Opposite page: Poster by right wingers opposing the left.

>>> **Background**

In 2003 Lula was the first PT (Workers' Party) president to take power in Brazil, and initiated 13 years of PT governments in Brazil (eight under Lula, then five underf Dilma Rousseff), in which various social democratic advances were made, including taking 20 million people out of poverty, and introducing the benefit system 'Bolsa Família'.

In 2013 demonstrations against rises in bus fares took place in São Paulo and were met with heavy police repression. In response to the state violence, and with global economic difficulties preventing the PT from implementing social democratic reforms without introducing a more progressive taxation system, massive demonstrations sparked up all over Brazil. People from various parts of the political spectrum took part, and the message quickly became watered down to simplistic demands such as 'better health and education' or 'no corruption', and slogans such as 'o gigante acordou' ('the giant is awake', referring to Brazil).

While the demonstrations lacked political direction, there was a shift to the right: demonstrators carrying red flags and wearing PT t-shirts were often met with hostility and were even beaten up by other demonstrators. The wave of demonstrations calmed down and some morphed into a much more moralistic, anti-PT and anti-corruption movement, led by 'new' right wing organisations such as the MBL (Free Brazil Movement). There was an association between the Workers' Party and corruption (despite many right-wing parties leading in the number of investigated and convicted cases of corruption) and people carried a massive inflatable doll of Lula in prison clothes, and called for Dilma's impeachment.

In August 2016 a parliamentary coup against Dilma Rousseff took place, and she was impeached for using a type of fiscal manoeuvring widely used in Brazil. When Congress voted to impeach Rousseff, resulting in her suspension as president, Michel Temer, Rousseff's former vice-president and coalition partner and leader of centre-right party 'Brazilian Democratic Movement' (PMDB) became acting president. He had been a major player in the impeachment.

In January 2018 Lula was sent to prison. His trial, conviction and subsequent imprisonment has been a politically motivated affair. Investigations into Lula began in 2016 with allegations that he had accepted a bribe form groups implicated in Operation Car Wash. The injustices in Lula's trial are enough to be the topic of a separate article, but as a result of a legal system inherited from Portugal (which is no longer in operation there), the judge Sergio Moro was also the investigator. As investigator, Moro authorised illegal wiretaps of Lula's lawyers and his family and released them to the media, and ordered his property to be seized and his bank accounts scrutinised. As judge, Moro rejected motions requesting his recusal, and found Lula guilty of corruption, based on little compelling evidence.

The political motivation for the prosecution was clear – not only was it a symbolic victory for the right, in taking down one of Brazil's most cherished public figures, but it had a particular practical effect: if convicted, and even more so if imprisoned, Lula would not be able to become president of Brazil again. Lula's popularity is such that, even if there were allegations of corruption, he would be likely to win a presidential election, but the same could not be said for the Workers' Party as a whole, leaving the presidency open to the right, as has been demonstrated by Bolsonaro's election.

Moro was one of Bolsonaro's first cabinet appointments – he will be taking on the role of minister for justice.

Workers rights and economic reform

The president-elect, guided by his financial advisor Paulo Guedes, is promising a widespread liberalisation of Brazil's economy, continuing the program of Michel Temer. Since the coup, Temer has approved a significant destruction of workers' rights, including taking salary negotiations between employee and employer outside of the law, introducing zero-hour contracts, and removing pregnancy protections. Further, whereas previously collective agreements providing for conditions beyond statutory protections were lawful, since Temer's reforms, any collective agreement does not need to comply with employment laws, even if they are significantly worse. It is expected that the Brazilian Central Bank will be given total autonomy from the government, and that many state companies will be privatised.

Further Bolsonaro has promised to 'simplify' the tax system by introducing a flat rate of 20 per cent for those earning above five times the minimum salary (minimum salary currently at R$ 954, approximately £200), down from an already insufficient 27.5 per cent maximum for an equivalent earner, with the assurance that those earning below five times minimum salary (below equivalent of £1000/month) will not have to pay federal income tax. Temer already introduced a freeze on fiscal spending, and it is clear that all areas of government spending will be cut significantly if these tax reforms proceed.

LGBT rights

One of Bolsonaro's main points of attack against his opponent Fernando Haddad (PT candidate), and the topic of much 'fake news' spread during the electoral campaign, was the so-called 'gay kit' that many of his supporters alleged would teach young children how to have gay sex. The 'gay kit' refers to the School Without Homophobia project that Haddad presented while minister of education. It was unfortunately vetoed by president Dilma Rousseff for being too controversial. The traction that the story gained during the election shows the conservative and moralistic nature of Bolsonaro's supporter base.

It is already clear that Bolsonaro's presidency will aim to wind back rights already won by LGBT people in Brazil. Evangelical

Christianity is a powerful force, having grown from three per cent of the population in 1970 to nearly a third today, with the evangelical caucus making up a fifth of Congress. Bolsonaro and the evangelical bench share many aims, amongst them abolishing LGBT rights.

Same-sex marriage became legal in Brazil in 2013 through the judiciary rather than through legislation, which means that some marital protections will likely remain, at least for a period of time. The Brazilian Order of Lawyers has recommended that LGBT couples get married before Bolsonaro takes power to avoid losing the right to do so; for LGBT people, the right to marry, and indeed, general freedom from persecution by the state, may be lost.

Further, federal deputy Jesse Faria Lopes from Bolsonaro's party PSL has asked on social media whether Brazil should have a law against gay kissing in public (as in Russia) in order to protect the innocence of children.

Even without a political programme to abolish LGBT protections, the rise of the right has already empowered a hostile environment towards LGBT people, itself strengthened by Bolsonaro's campaign and victory. There was a reported 30 per cent increase in LGBT hate crime from 2016 to 2017, which has likely increased exponentially in the last few months. Some examples include a number of videos of football fans chanting "Bolsonaro will kill queers", and a number of high-profile attacks on LGBT people by Bolsonaro supporters (including a swastika carved into a woman holding an LGBT flag), and a trans woman was murdered in Sao Paulo on 16th October with the attackers shouting "Bolsonaro" as they stabbed her.

Early government attacks on LGBT people may appear in the form of cuts to HIV treatment funding. The public health network currently provides free universal healthcare for all Brazilians, but during the election campaign Bolsonaro said that government money should not be spent to treat people who get sexually transmitted diseases. As a policy which removes spending on those most despised by the conservative and religious right, it would likely be a popular move.

Ideological battle

Shortly before the second vote Bolsonaro made the extent of his intolerance to political opposition clear, saying of his political opponents "either they go overseas, or they go to jail". He has made it clear that he will vastly increase the powers of the military police, which will have significant impact on working class, predominantly black, communities. And a few days after his election one of his political allies in the chamber of deputies proposed amendments to anti-terrorism laws, openly saying they want to criminalise social and political movements such as the Movement of Landless Agrarian Workers (MST).

The amendments would include in the definition of terrorist activity any acts done to 'coerce the government' to 'do or stop doing something, by political, ideological or social motivations', and would include in the list of terrorist acts 'setting fire, stoning, stealing from, destroying or exploding any means of transportation or any public or private property'. The inclusion of these terms in the definition of 'terrorism' had been previously vetoed by president Dilma Rousseff as she feared the law could be used to shut down political demonstrations. However, it is worth noticing here that the existing anti-terror laws have already been used to penalise activists in the 2013 demonstrations.

Firearms

Two of Bolsonaro's main campaign pledges were to allow the possession of firearms by civilians without the need to get a license under the pretext of 'effective necessity' and to lower the minimum age for gun possession from 25 to 21 years.

Bolsonaro has also promised to exclude any punishment for the military police if they kill someone by gunshot in order to protect public or private property, saying "I will give the police carte blanche to kill" and "police who kill thugs will be decorated". Currently, it is only legal for the police to shoot someone if they are defending the lives of someone else or themselves, and Brazil has among the highest rates of police violence and minimal rates of investigation into police violence, all in the context of an average of 14 people killed by Brazilian police per day.

Environment

Bolsonaro's election marks a huge threat to the Amazon rainforest. He has previously said that environmental protections are hampering Brazil's development, and has announced plans to merge Brazil's agriculture and environment ministries so that ecological concerns about deforestation will no longer have to concern the government, allowing the Amazon to be commodified more effectively. He has also promised to ban meddling international NGOs such as Greenpeace and WWF from Brazil, and said that there "must not be radical environmentalism in Brazil". Bolsonaro confirmed that the agriculture minister in his government will be Tereza Cristina, current leader of the ruralist (or 'beef') bench of the chamber of deputies.

The Amazon is already being deforested at a rate of 52,000 square kilometres per year; an increased rate of deforestation would not only reduce the capacity to re-absorb CO2 but would mean the release of the CO2 already stored in the trees, which would have devastating environmental impact.

Indigenous Rights

Bolsonaro presents not only a threat to the way of life of Brazil's 900,000 indigenous people, but in many cases, a threat to their lives themselves. The 1988 Brazilian Constitution recognised the rights of indigenous people to their traditional ways of life and possession of their territories, and that was reaffirmed in a 2017 Supreme Court case. He has also been described as a "threat to humanity" by Dinamã Tuxá, coordinator of Brazil's Association of Indigenous Peoples. Bolsonaro has also said that he will not recognise protections on indigenous lands: "not one centimetre will be demarcated for indigenous reserves". There are currently 690 indigenous territories, covering about 13 per cent of Brazil, and it is thought that there are about 80 uncontacted groups living in the Amazon. According to statistics from Brazil's Indigenous Missionary Council, 110 indigenous people were killed in 2017, and this will only worsen under Bolsonaro's leadership. He once said "it's a shame that the Brazilian cavalry wasn't as efficient as the Americans, who exterminated their Indians". It's worth noting, however, that the upcoming assault on indigenous rights is not a new trend, and one that worsened after Temer took office in 2016, when a rolling back of protections for indigenous people was instituted and limits on recognising indigenous land put in place. Indeed, it has been going on much longer, including in the Workers' Party governments of Lula and of Dilma; with lands stolen for cattle ranches and soya fields over the past 100 years, and exploitation of indigenous people since early Portuguese and Spanish colonialism in 1500.

Picture: Eugenio Hansen, OFS CC-BY-SA-3.0

Friday 13th July 2018 Defiance and jubilation as 250,000 people poured into central London to protest against Donald Trump's visit.
Picture: Jess Hurd / reportdigital.co.uk


TUC London, East & South East
NOT WALLS
TRUMP IS WEAK!
TRUMP THIS!
ANYTHING FOR A TRADE DEAL???
IMPEACH THE ORANGE FART
I WISH THIS WAS FAKE NEWS
#DUMP TRUMP
Socialist Worker
DUMP TRUMP
FIGHT BIGOTRY
FIGHT TRUMPISM
FIGHT SEXISM
RESIST RESIST RESIST RESIST RESIST
THIS VOTING American Says: DUMP Trump
ANOTHER EVIL WHITE MAN TO ADD TO THE HISTORY BOOKS
THOU SHALL NOT PASS!!
GUILLOTINE?
TRUMP NOT WELCOME
REFUGEES WELCOME
Toilets

No more de streets: tax and homele

aths on our avoidance ssness

Picture: Jess Hurd / reportdigital.co.uk

Homelessness has increased in the UK year on year since 2010. **Andrew Marlow** looks at one of the reasons there is a dire shortage of housing.

The Grenfell Tower disaster of June 2017 has brought with it an unprecedented media focus on the 'housing crisis'. Most criticism has been levelled at local authorities for failing to rehouse people in suitable accommodation and in a timely manner. Private residential landowners, such as developers, investors and buy-to-let landlords, have also been criticised for pushing up prices and making housing unaffordable for many. A similar critique could be made of those who privately own other types of land, especially where they keep it empty through the use of tax avoidance schemes. This article explains and justifies that critique.

The 'super prime crisis'

It will begin with a note on terminology. Alternative terms for the 'housing crisis' are available. Anna Minton, in her book *Big Capital: Who Is London For?*, offers the term 'super prime crisis'. This recognises the fact that a large part of today's housing difficulties comes from the impact of wealthier individuals and organisations purchasing excess land, thereby pushing up prices and reducing availability for others.

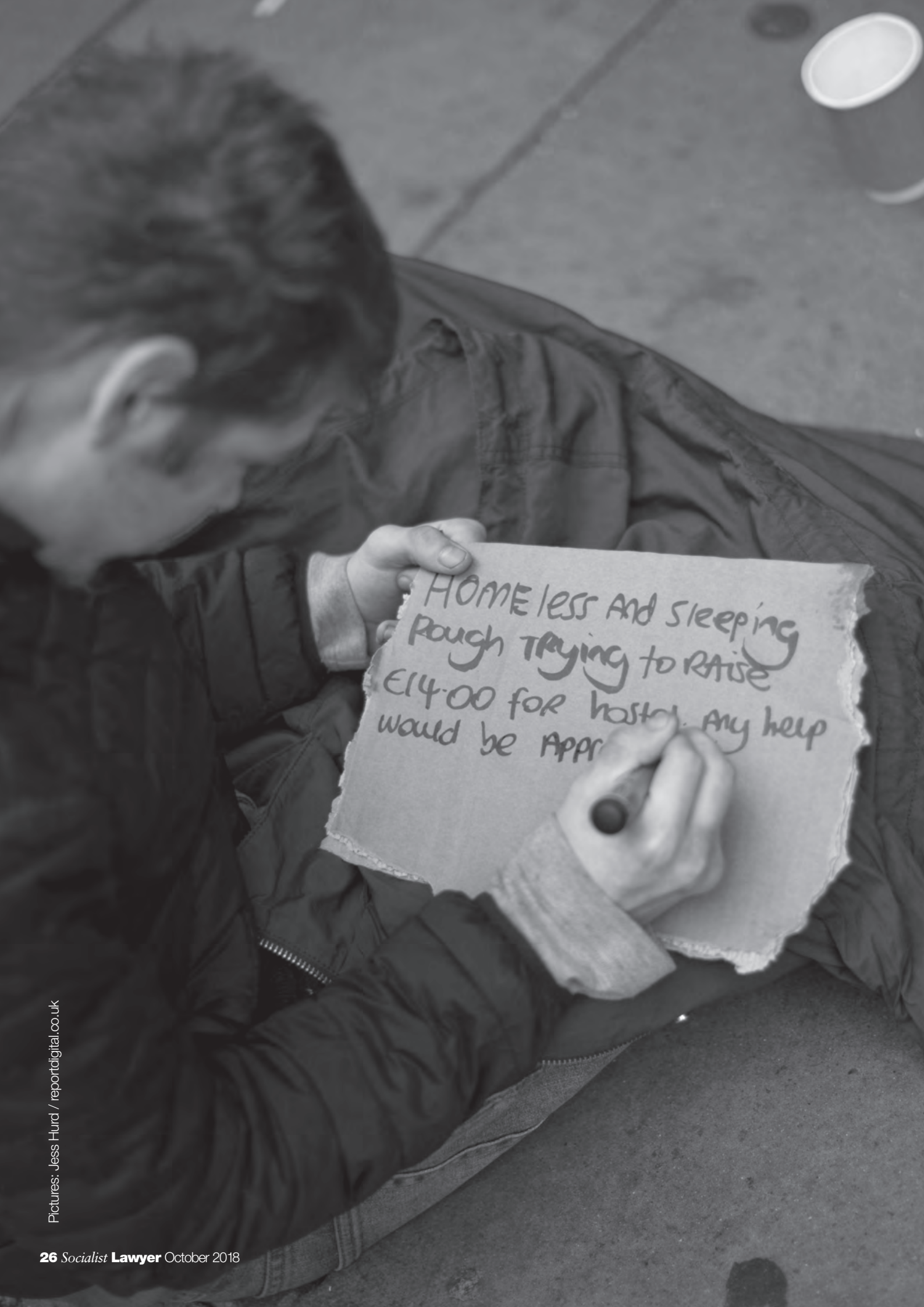
For evidence of this phenomenon and its impact, we need look no further than a March 2018 article in *The Times*: '[h]ouse prices have risen by a fifth more than they would have done without overseas investment over the past 15 years […] the average home in England and Wales would now cost £174,000 if there had been no overseas buyers compared with about £215,000 at present'. Many such buyers are likely to have seen the 'property' they were purchasing not as a matter of providing them with a home, but instead as a form of investment – an attitude well illustrated by publications such as Knight Frank's *The Wealth Report*.

A significant factor, then, in today's housing crisis may be the choice by developers and investors to see 'property' as an investment asset, purchasing, accumulating and transferring it with the sole aim of seeing their investment rise in value. For this reason, the rest of this article will refer to what is commonly known as the 'housing crisis' as the 'super prime crisis'.

Rates-saving leases

Regarding empty land, there is a mechanism by which landowners can avoid paying business rates while keeping their land empty through the use of leases that may often appear to be shams. This mechanism is the rates-saving lease.

Ordinarily, business rates are payable on commercial and industrial property. If that >>>



Pictures: Jess Hurd / reportdigital.co.uk

>>> property is left empty, then the landowner does not need to pay business rates for a tax-free period of three months (for commercial property) or six months (for industrial property). However, if the land remains empty after the three- or six-month period expires, the law requires that landowners should then start paying business rates on the land once more.

Landowners have found a way of getting around this requirement: if they enter into a lease of at least six weeks at the end of the three or six-month exemption period, they can claim a further exemption period when that lease expires. The end result is that landowners can enter into a never-ending cycle of avoiding business rates for the exemption period, then entering into a six-week lease, then entering into another exemption period, *ad nauseam*.

The wrong in this scheme is that the exempted land will often remain perpetually empty. Although the land may seem occupied during the six-week lease period, courts have found that occupying 0.2 per cent of a 140,000 square foot warehouse (*Makro Properties Limited v Nuneaton and Bedworth Borough Council* [2012] EWHC 2250) or installing a small Bluetooth transmitter box in a 1,500 square metre warehouse (*Sunderland City Council v Stirling Investment Properties LLP* [2013] EWHC 1413 (Admin)) is enough for the purpose of the six-week lease. To any reasonable observer of the supposedly occupied land, it could appear as empty while 'let out' as it would be during the tax relief period.

Real Estate Investment Trusts (REITs)

The data shows the extent to which rates-saving leases are used in various parts of London. Another tax avoidance scheme available to landowners is the Real Estate Investment Trust (REIT).

As the name suggests, REITs invest in UK real estate. Introduced in 2007, they avoid tax on profits gained from property investments: '[a]ll UK REITs are exempt from corporation tax on UK property gains and rental income profits'. Despite some moves to tackle tax avoidance in the November 2017 budget, the tax-exempt status of REITs is not set to change.

It is not surprising, then, to read in publications like the *Property Law Journal* and the *Estates Gazette*'s *Global Investor Guide* that REITs 'may become relatively more attractive as investment vehicles' following the November 2017 budget and that, '[b]eing a tax-efficient structure, a REIT is an increasingly popular choice for real estate around the world'.

In addition to the prevalence of rates-saving leases in various parts of London, the data also illustrates instances where rates-saving leases are being used by REITs. This could be said to create a double whammy of tax avoidance on the part of these REITs, where they first use leases that may often appear to be a sham in order to avoid business rates, and then use their status as REITs to avoid any tax on rental income or corporation tax.

FOI data

FOI requests have been made to various London councils, asking: 'for how many commercial properties within your Borough have there been multiple applications for empty rates relief in the past three years with a time lapse of no less than approximately four and a half months between applications?' and 'for how many industrial properties within the Borough have there been multiple applications for empty rates relief in the past three years with a time lapse of no less than approximately seven and a half months between applications?' The requests seem to be an attempt to identify the extent to which rates-saving leases are being used as tax avoidance measures.

Local Authority	Empty Commercial Properties	Empty Industrial Properties	Rough Sleepers	People in Temporary Accommodation
Bexley	*235*	*53*	*11*	*2,918*
Ealing	*125*	*61*	*27*	*6,529*
Haringey	*27*	*2*	*29*	*9,688*
Islington	*1,896*	*345*	*11*	*1,916*
Lambeth	*519*	*203*	*17*	*5,656*
Sutton	*8*	*2*	*8*	*1,331*
Westminster	*415*	*19*	*260*	*7,794*

For those councils that supplied data, their responses showed not only how many properties in their area have been subject to repeated rates-saving leases, but the companies and individuals linked to them.

This is where consideration of REITs comes in: for, when one looks at the list of UK REITs provided on the website of *Investment Property Partners*, one finds that names of certain REITs appear with predictable regularity in the data obtained by these FoI requests.

One particular REIT was linked to rates-saving leases in relation to four properties in Ealing, 249 properties in Islington, 115 properties in Kensington and Chelsea, 119 properties in Tower Hamlets, 21 properties in Wandsworth, and 91 properties in Lambeth.

The numbers alone may be somewhat deceiving. For example, of the 249 properties Islington, the vast majority are commercial and industrial units at a mere seven different addresses. These 'properties' therefore relate to multiple units in a much smaller number of buildings.

But that caveat aside, the following points still stand:

- Certain companies are making repeated applications approximately every four-and-a-half or seven-and-a-half months for empty rates relief in respect of what is, in certain areas of London, a large number of properties;
- This behaviour likely indicates that such companies are periodically using leases of at least six weeks, entered into after periods of at least three or six months, to give the appearance of periodic occupation of those properties;
- This appearance of periodic occupation is being used to justify repeated applications for empty rates relief;
- Given the case law indicating that 'occupation' for these purposes may amount to something extremely minimal, there is reason to believe these properties may remain perpetually empty and the six week 'occupation' may in effect be a sham;
- In addition to avoiding business rates by the apparent use of such leases, many entities using these leases also avoid"corporation tax on UK property gains and rental income profits by virtue of existing as REITs; and:
- In a situation of rising homelessness, and against the backdrop of the super prime crisis, this may be critiqued for depriving central government and local authorities of much-needed funds that could be used to support social housing, and for leaving land empty that could be directly or indirectly used to provide housing or support to those who are currently homeless, threatened with homelessness, or struggling to meet housing costs.

Homelessness

It is worth comparing the figures obtained by these FOI requests with figures obtained by Shelter in November 2017, reflecting the numbers of those either sleeping rough or living in temporary accommodation. The table above makes for sobering reading:

The picture is clear. In each of the London councils for which there is adequate data, the number of commercial and industrial properties that appear to have been kept empty through rates-saving leases either equals or outstrips the number of rough sleepers in that area. It may be suggested that, if each of these properties were converted from commercial and/or industrial use (in the exercise of which they have been kept continually or repeatedly empty) to residential, then every one of the rough sleepers in each of those councils could be given a roof over their heads (though some of the buildings are currently purposed for non-domestic use).

It cannot be right that entities holding landed wealth are allowed to avoid taxes while keeping land empty. If the properties identified above must remain empty, it would do some good for their owners and/or occupiers to pay the relevant taxes on them, so that local authorities and central government are provided with adequate funds to meet their duties to the homeless.

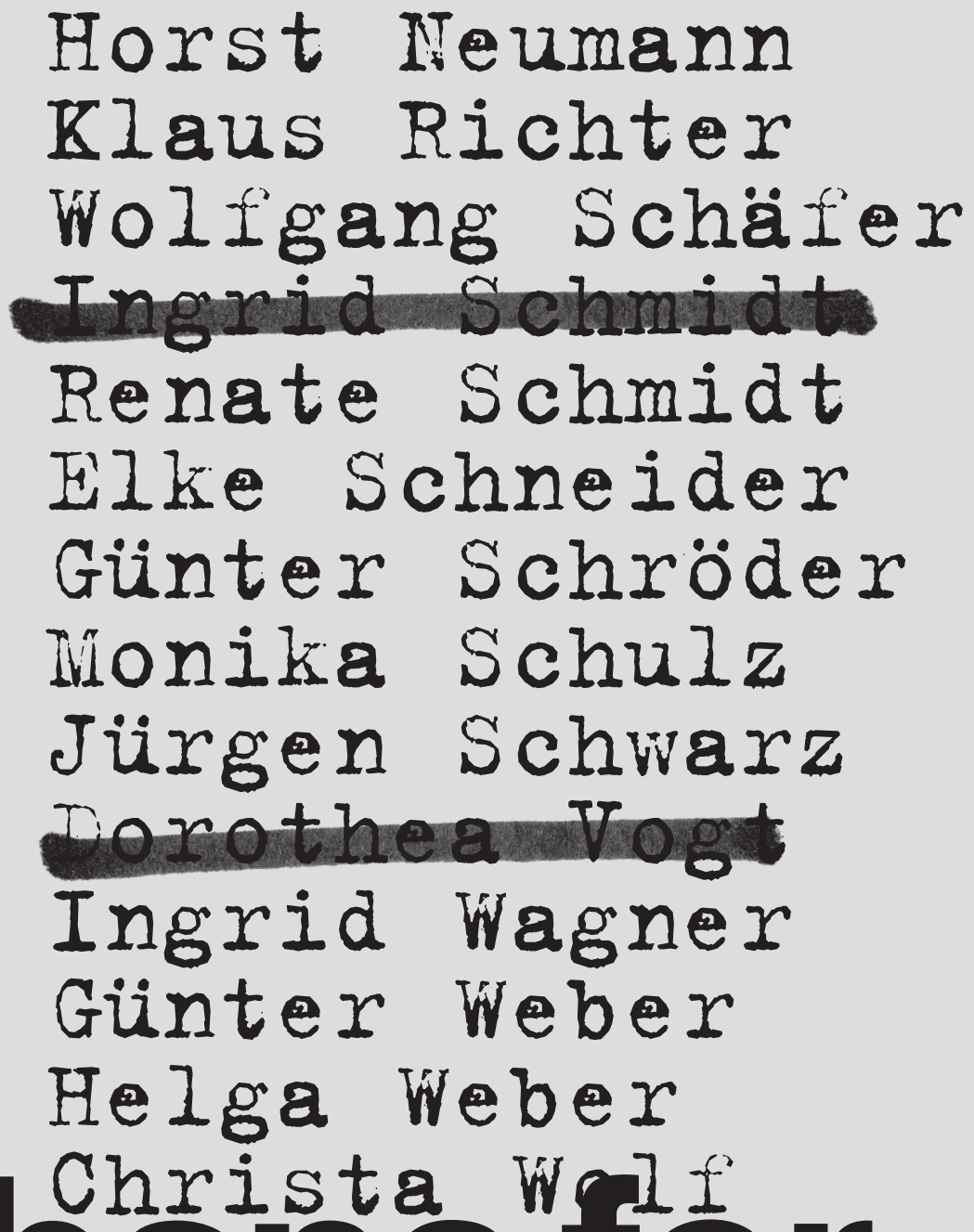
We should be under no illusions: requiring owners of empty properties to pay their fair share of tax, or even putting all such empty property to use as residential accommodation for homeless people, would not be an outright solution to the super prime crisis. The temporary accommodation statistics demonstrate that.

But it would be a step in the right direction, and could move us towards a situation where, as demanded by the recent protests organised by Streets Kitchen in London, there are "no more deaths on our streets".

Andrew Marlow is a housing adviser at Community Law Partnership olicitors in Birmingham (a fully referenced version of this article is available on request).

Dieter Bauer
Peter Bauer
Karin Becker
Michael Csaszkóczy
Erika Fischer
Günter Fischer
Heike Gohl
Horst Griese
Klaus Hoffmann
Ilse Jacob
Hans Klein
Manfred Koch
Gisela Mayer
Jürgen Müller

Occupationa
left-wing polit
a lesson from



l bans for ical activity: Germany >>>

>>>

by **Klaus Dammann**

More than 45 years ago a dark chapter of West German history started in Hamburg: in autumn 1971 the city's senate first tried to impose occupational bans (*Berufsverbote*) for left-wing workers in the public sector. Two teachers, Heike Gohl and Ilse Jacob, were described by the mayor and senator for justice (Peter Schulz, who would later represent as the city during the trial that followed) as "fascists in red varnish." A storm of democratic protest stopped their first effort: spontaneous protests were triggered, mainly due to the fact that Jacob's father Franz Jacob (a leading communist anti-Nazi resistance fighter) had been murdered by Hitler's fascists.

On 28th January 1972, West German Chancellor Willy Brandt and the Prime Ministers of the West German states adopted the so-called 'decree on radicals' (*Radikalenerlass*). It made no change to existing constitutional or administrative law, but instead introduced a procedure for screening public sector job application applications by members of political parties or organisations deemed to be 'inimical to the constitution'. All such applications had to be considered by the domestic intelligence service, the so-called 'office for the protection of the constitution'. Later, this screening procedure was extended to the private sector in areas considered 'relevant to security'.

An applicant alleged to be a member of the German Communist Party would be required to attend a hearing. Initially, lawyers were excluded from such hearings on the (cynical) basis that they were of a personal nature, though the courts later ordered that applicants be allowed to be represented by counsel.

During the hearing, the information contained in the applicant's dossier (which was often false) would be put to them. They would be questioned about their political activities and views, and even the politics of their spouses or associates. The applicants would have to, credibly and strongly, distance themselves from the party to avoid non-appointment or even dismissal.

As the employers turning down applications – or even dismissing people from their jobs – were public bodies, it fell to the courts to decide what should be done. In the early years there were courageous decisions taken by some labour courts and administrative courts, and even the Federal Disciplinary Court. The State Labour Court of Bremen ruled twice that the ban on employing a social sciences teacher (Horst Griese) was unlawful – even after the Federal Labour Court had rescinded the judgment of the local labour court and referred the case back to the state court. The Labour Court of Oldenburg reinstated a teacher by referring to ILO Convention 111 (Discrimination in Respect of Employment and Occupation). The Federal Disciplinary Court had initially argued that a distinction had to be drawn between the 'constitutional' short-term objectives of the German Communist Party and the party's 'unconstitutional' long-term objectives, and that members that insisted on its legality were 'in error' if they focussed on the party's short-term objectives. But the Federal Administrative Court based its judgment of on an extremely restrictive interpretation of the "loyalty to the Constitution" owed by civil servants. The Senate of the Bundesverwaltungsgericht considered that a person's 'inner confession' (*inneres Bekenntnis*), as expressed by membership of a party and party activities, were the yardstick for determining whether a civil servant lacked loyalty to the constitution.

"So you can live in peace tomorrow" – a 1969 election poster for Willy Brandt and the Social Democratic Party in Germany.

A few months later, on 22nd May 1975, the Federal Constitutional Court's ruling on 'extremists' pointed out that 'removal from service is only possible on the grounds of a concrete offence against the civil servant's duties' and that each case had to be assessed individually. The existence of a political opinion would never be sufficient on its own, but membership of and activities for a party deemed anti-constitutional might justify 'doubts'. Crucially, the Federal Constitutional Court undermined the privilege of political parties, enshrined in Article 21 section 2 of the German Basic Law. The Court legitimised the use of the term 'inimical to the Constitution' – a phrase used in political debate – whereas constitutional law only contains the notion of the 'unconstitutional character' of a political party. That is important because a party can be declared to be 'unconstitutional' by the Federal Constitutional Court, but it is the federal government that would deem a party to be 'inimical to the Constitution'.

Various German courts dealt with a number of 'disguised party ban' cases, saying that a member of a party labelled 'inimical to the

"In 1972, West German Chancellor Willy Brandt and the Prime Ministers of the West German states adopted the so-called 'decree on radicals', introducing a procedure for screening public sector job application applications by members of political parties or organisations deemed to be 'inimical to the constitution'."

"The Bundestag should pass a law to remedy violations of Articles 10 and 11. Apart from the German states in which occupational bans were imposed, the German federal government and parliament should be required to recompense for the injustice caused by the executive, legislation and jurisdiction, compensating for all the damage done to the people who were affected, as a form of remedial action."

Constitution' gave sufficient grounds for the assumption that this person lacked loyalty to the Constitution. In contrast to the Federal Administrative Court, the Federal Labour Court said that loyalty owed by public sector workers should refer to that person's function at work. But in the case of teachers and social education workers the stereotype allegation was that they would indoctrinate children so in most cases, in practical terms, the outcome was the same.

In 1991 there was a complaint to the European Commission on Human Rights that the *Berufsverbote* amounted to violation of human rights. Dorothea Vogt was a teacher with a lifetime appointment, who had been removed from her post. Similar proceedings had not been initiated before because earlier claimants had not exhausted domestic remedies: they had been DKP members and the party was (understandably) concerned that high-level *Berufsverbote* rulings might create bad law, effectively legitimising bans on party members. But Vogt chose not to follow the DKP's advice. In her case, the Federal Constitutional Court ruled her constitutional complaint inadmissible because it had insufficient prospects of success.

In its report of 30th November, 1993, the Commission concluded that – contrary to the ruling of the German Federal Constitutional Court – there had been breaches of Articles 10 (freedom of expression) and 11 (freedom of association). The Council of Ministers of the Council of Europe and the German Federal Government lodged an appeal to the European Court of Human Rights. The ECtHR was initially due to deal with the case as a small chamber, but the case was transferred to a grand chamber in light of its fundamental importance.

The court found a violation of Articles 10 and 11 of the Convention. It was important for the ECtHR that Ms Vogt was a life-tenured civil servant at the time when disciplinary proceedings were started and when the dismissal took place. In previous judgments, the ECtHR had decided that appointment to the public service – in contrast to existing employment situations – is not covered by the European Convention of Human Rights.

The court's conclusion was that Ms Vogt's dismissal was, in principle, prescribed by law and that there was, in principle, a legitimate aim. But her particular dismissal was not justified in a democratic society. The court took into account the fact that Ms Vogt had never been blamed for any misconduct, at work or otherwise. Her activities with the DKP were absolutely lawful. The court found the absolute and unrestricted nature of the duty of political loyalty striking: 'It is owed equally by every civil servant, regardless of his or her function and rank'.

The judgment refers explicitly to the ILO's inquiry proceedings into *Berufsverbote*-style practices in Germany. A strong national and international solidarity movement had emerged since 1976: the World Federation of Trade Unions had repeatedly lodged complaints at the ILO, which eventually led to an inquiry by an Expert Commission. And at the request of the German government, the ILO formed an independent Commission of Inquiry to review *Berufsverbote* practices. The report condemned the *Berufsverbote* as a violation of Convention 111: an impermissible discrimination in employment and occupation. The German government was asked to end all ongoing *Berufsverbote*-style proceedings. The government strongly opposed this condemnation of their policy but did not submit the case to the International Court of Justice (which would have been possible, or even imperative under the rules of procedure). Evidently, the government feared that the ICJ would agree with the Commission of Inquiry.

The ECtHR's judgment is of great importance beyond the individual case. This decision has strengthened protection of the freedom of opinion and association. Regrettably, the ECtHR had excluded applicants for the civil service, as well as recall and probationary civil servants, from its scope.

Beyond Dorothea Vogt's individual case there are legal implications for other current and even previous claims. The binding character of ECtHR judgments is such that developments ought to be taken into account as 'new facts', which means that cases that have already been determined could be re-opened under German law. In all likelihood, however, applications to re-open old cases will be turned down without exception because the Federal Disciplinary Court has ruled that the *Vogt* judgment was not a 'new fact' for the purposes of re-opening a case. The Federal Constitutional Court upheld that principle without giving any reasons, and the ECtHR has, in turn, upheld it on the basis that there was insufficient prospects of succeeding on appeal.

While some of those who were affected by *Berufsverbote* were appointed or reinstated after Vogt, a great deal still needs to be done. There has never been any compensation for the injustice that many suffered. Although the standard screening procedure was abolished (except in Bavaria) the 1972 Decree on Radicals has never formally been scrapped.

In a parliamentary democracy, where there has been an injustice it should fall to the executive or legislature to remedy wrongful laws. And under normal circumstances it is the role of the courts to guarantee constitutional rights through judicial review. But the history of the *Berufsverbote* demonstrates that various types of German courts, including the Federal Constitutional Court, failed on this issue. The nternational institutions (ILO and ECHR) were the solution. It is true that some domestic politicians have publicly regretted the *Berufsverbote* (such as Willy Brandt and Hans Ulrich Klose (former Mayor of Hamburg)) but parliamentary initiatives to overcome the injustice and provide compensation came relatively late.

In 1996, the Green Party MPs in the state parliament of Lower Saxony initiated legislation to compensate people affected by *Berufsverbote*, but at it failed due to resistance from Social-Democrats (who were in the same government coalition).

The state legislature of Baden-Württemberg passed a sympathetic resolution on 18th May 2000, but it did not lead to any administrative change or regulation (only to review of some individual cases of possible re-appointment). On the contrary, as late as 2006, the Administrative Court of Karlsruhe turned down a complaint by the secondary middle school teacher Michael Csaszkóczy who had not been accepted for the school service of the State of Baden-Württemberg (although there was a successful appeal).

The Bundestag should pass a law to remedy violations of Articles 10 and 11. Apart from the German states in which occupational bans were imposed, the German federal government and parliament should be required to recompense for the injustice caused by the executive, legislation and jurisdiction, compensating for all the damage done to the people who were affected, as a form of remedial action.

Klaus Dammann is a lawyer practising in Hamburg. (A fully-reference version of this article is available on request.)

Banks, the law, the

Don Beal argues for urgent reform

and money – root of all evil

To be exact, the quote is: 'For the love of money is a root of all kinds of evil' (1 *Timothy* 6:10). Is this still true 2,000 years later? Does the banks' love of money result in evil? In this article we look at some of the consequences of modern banking systems, how they came into being, and the necessity for structural change that only a change in the law can bring about.

The Bank Charter Act 1844

Until 1844, every bank was free to create and issue its own banknotes. They loved to do this, and they issued far more banknotes (which were promises that the bank would replace them with gold (real money) upon request) than they had gold in their vaults. Why did they do this? Because they issued banknotes to borrowers who agreed to repay later *together with interest*. There was noticeable inflation in prices and many crises, bank insolvencies and ruined depositors followed when depositors and holders of banknotes asked for gold simultaneously when they suspected that the bank did not have enough. In response the government passed the Bank Charter Act, which gave the Bank of England the exclusive >>>

>>> right to issue banknotes. Moreover, the Bank of England had to have the gold to back 100 per cent of its banknotes.

Evils averted?

Not so fast. There was an exception to the new system of 100 per cent gold requirement, 'demand deposits'. Demand deposits were 'a very small part of the banking system, and not really money, but a form of credit that is not part of the money supply' according to the 'British Currency School' of economists. This new form of credit – free from the restriction of 100 per cent gold backing – became immediately popular. Today 'demand deposits' are called 'bank accounts'. Banks could create and issue 'credit' instead of banknotes, not backed by anything, and they loved it. There followed crises in 1847, 1857 and 1866. Each time Parliament suspended the 100 per cent gold backing requirement for the Bank of England so that it could issue new banknotes to bail out the banks and prevent a wider banking collapse. Despite this backtracking, there was still a substantial proportion of money backed by gold. And until 1914 this new monetary regime served to stabilise the monetary system in the UK and internationally.

International banking

By 1914 banking was international but it was dominated by the London banks. In the USA the Federal Reserve Central Bank was created at the end of 1913. Despite its name it is a private bank, owned collectively by the largest private banks in the country.

In 1914 the panic caused by the war led to a freeze in international banking transactions. Again, the UK Parliament intervened, and this time the Treasury issued lower-denomination banknotes instead of coins, and the Bank of England paid merchant banks the money owed by companies abroad (the Bank of England was eventually repaid by the overseas companies). Effectively, the gold backing was suspended. It was restored by the Gold Standard Act of 1925 by the then-Chancellor of the Exchequer Winston Churchill. Unfortunately it was a disaster. The pound was fixed at its pre-war value, but the war had changed international trade and the pound was no longer worth as much. The UK finally abandoned the gold standard in 1931 after losing most of its gold.

Later, partial gold standards for international transactions were established, which lasted until 1971, but there was effectively no gold backing for UK money within the UK.

The fractional reserve system

However, what was called the 'fractional reserve' system for UK bank accounts was established. Banks were required to keep 10 per cent of deposits in vaults so that depositors who asked for their money back could get it immediately. At first this meant that depositors could get bank notes, but over time, this merely meant that they could transfer the money to another bank.

Note that the act of lending 90 per cent of a deposit is effectively creating money. The original depositor believes they still own the full amount. The new borrower (with the new credit/money in their bank account) believes they now own the additional 90 per cent to spend as they wish. The borrower has an obligation to repay but until that time, the borrower has new money to spend. The amount of money has just increased from 100 to 190. The 90 per cent is issued as a loan from the bank into a bank account. Because it is credit it does not actually come from any existing money. But it behaves as money from that point on, until the loan is repaid, when the credit is cancelled, and that money disappears.

The lure of issuing money that they didn't have, and the benefit to banks of the *interest* on the loan that they could *keep*, meant that banks sought to lend as much as possible. Banks loved this system. Effectively it meant that most of the money in existence was temporary, in the form of loan money sitting in bank accounts, and a steady stream of interest was fed into the banking system to enrich the bank owners (shareholders).

There are two consequences to this. First, the rest of the economy has to feed the banking system with resources that could have been used elsewhere. Second, the amount of money has to increase for ever, because the interest can only come from further loans taken out by someone somewhere.

Are these evils? The answer in respect of the first consequence depends on whether one owns bank shares (directly or indirectly). As for the second consequence, sooner or later the amount of money in existence exceeds the ability of borrowers to repay – and we suffer from financial crises and bank collapses.

Moreover, the 10 per cent fraction only applied to individual banks. A loan made into a bank account would typically be spent by the borrower and paid into another bank. This second bank would regard this as a deposit, and could lend 90 per cent of that. And so on. If one does the maths, it turns out that for the banking system as a *whole* the fraction of bank account money held as reserves is merely one per cent, not 10.

Deregulation by Thatcher in 1986

The Restrictive Trade Practices Act of 1956 had been used by banks to challenge the London Stock Exchange rules separating brokers (acting as agents for clients buying or selling stocks and shares) from 'jobbers' (who traded in stocks and shares). Another rule prevented brokers and jobbers being part of larger banking companies. Thatcher supported the LSE's challenge and arranged for these rules, and others, to go. Again, the banks loved it. Among other things the combined banking entities could now use depositors' money to trade on the financial markets. This greatly increased risks of financial loss and later led to the term 'casino banking'.

Fast-forward to 2007-8

By then bank accounts were 97 per cent of the money in existence. The fractional reserve system had failed to curb bank lending. Banks in the USA had been lending heavily to mortgage borrowers who could not repay. Why? It was due to financial 'engineering' devised in the wake of deregulation in the 1980s. Previously, mortgage loans were made by the banks that collected the payments over the lifetime of the mortgage. Managers stood to lose their jobs if the loans they authorised went into default.

By 2007, large numbers of mortgage loans were collected and assembled into 'securitised collateralised obligations'. These new financial instruments were then sold to banks and investment houses that had played no part in making the original loan. This meant that the banks making the loans were not the banks that collected the income over time. Banks loved it, because house prices rose during the process of more and more lending, but it was unsustainable. The standards for making loans grew lower and lower, while still being sold on as if they were sound investments.

Was it evil to lend other people's (investors') money to those unable to repay? Some people think so. Certainly the lenders were breaking the laws of the time.

By 2007 American mortgage defaults were rampant and houses were being repossessed at ever-lower prices. There was recognition that the packaged mortgages were not sound investments, and that financial companies were facing huge losses. The financial world had become highly interconnected. After Lehman Brothers crashed, the USA's other major banks would have collapsed too if the government had not used taxpayer money to prevent a cascade of defaults from each bank through to the next.

Despite the US government bailouts, there was a global financial crisis. Banks in other countries also needed bailouts from their governments. In the UK Northern Rock failed – they had been making long-term loans (mortgages) at low interest rates, and funding them with *short-term* borrowing from international banks that repeatedly had to be repaid and re-borrowed. Interest rates for international borrowing went up and banks could no longer borrow at rates that matched their loans, so they became insolvent. Nor could Northern Rock sell their securitised mortgage packages – the market now had no appetite for them. Bradford & Bingley, RBS, and HBOS also required government bailouts or intervention.

Fast forward to 2018

Little that is fundamental has changed. The main difference is that banks are now advised to hold more capital under the (voluntary!) Basel III regulations to protect against the pattern of the previous crisis. But banks that were 'too big to be allowed to fail' are now bigger (due to mergers of the weakest banks into larger ones), and there is no genuinely effective limit on the amount of money they create. Banking is international. The money supply continues to expand and the amount of debt owed by governments, businesses and individuals, continues to grow at the same rate. It is clear that many debts are unpayable (just ask Yanis Varoufakis of Greece) but it is not known exactly where and when the next wave of defaults will occur. The UK total debt (government, businesses and households taken together) is now five times (500 per cent) of UK GDP.

The system is unsustainable – what changes in law and by government are needed?

The key issue is money creation. Underneath all of the financial system, underneath the banks, underneath the regulations, underneath the different forms of money, underneath central banks, money itself and the relentless growth in the amount of money drives banking behaviour.

Money creation can be controlled. We have to understand the issue and get politicians to understand the issue. The organisation Positive Money (positivemoney.org) has proposed to entirely remove the right to create money from banks – essentially closing the loophole in the 1844 Act – and hand money creation to an independent committee at the Bank of England. Then the new money can be limited to the growth in GDP, and be spent by government instead of the favoured borrowers of the banks. This particular proposal may be too radical to be feasible, but is good for raising awareness of the problem.

I would argue for a more gradual change, based on changing the taxation regime for banks so that they pay tax in proportion to the amount of money they create, combined with government issue of sovereign money to ensure any reduction in bank lending does not shrink the money supply.

Government should ensure that citizens have access to bank accounts that protect their right to *own* their deposits. Ever since *Foley v Hill* in 1848, banks own the money that depositors place with them, and in the event of bank insolvency and liquidation the depositors come in the last category of creditors for any resolution payments. Moreover, they are now vulnerable to 'bail-ins' which could be worse.

It is also vital to enforce existing laws. Banks have paid fines for fraud mis-selling insurance, the Libor scandal, and other law-breaking, but the fines are often less than the bank's profit from the illegal activity. And if public regulators won't prosecute bank executives, is there a role for private prosecutions?

Don Beal is a campaigner for banking law reform (he is not affiliated to the Haldane Society)

Cleaners, organised in the United Voices of the World trade union, have been striking over pay and unfair working conditions at the Ministry of Justice in London. See: www.uvwunion.org.uk

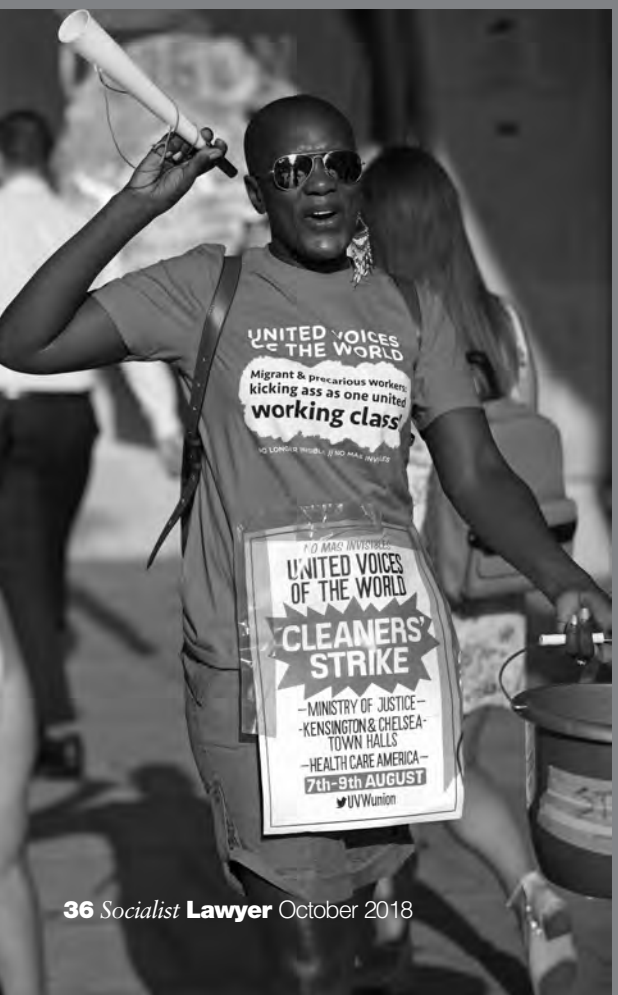
"Cleaners (members of UVW and all of whom are migrants) who work at the MoJ's headquarters in Westminster, are set to be balloted to strike if their demands for a living wage, and equality of sick pay and annual leave allowance with civil servants are not met.

If the strike goes ahead it will mark the first strike of any group of workers at the MoJ and will also mark another dispute for higher wages and better terms and conditions led by migrant workers.

Aside from their pay and terms and conditions the cleaners are also set to strike over the failure of the MoJ to provide them with separate changing rooms for male and female cleaners which has left many of them feeling uncomfortable and often vulnerable.

Furthermore, they are callously overworked due to unnecessary cuts in the numbers of cleaners which has left only 24 to clean the entire MoJ which is spread across 14 floors and 51,000 square feet.

The additional cost of paying the cleaners the living wage would only be £48,000 per year, which is the equivalent of the average salaries of one and half civil servants."



Pictures: Jess Hurd / reportdigital.co.uk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UNIVERSITY OF LO
NDENT WORKERS UNION


UNITED VOICES OF THE WORLD
precarious workers:
ass as one united
workingclass!
INVISIBLE // NO HAS INVISIBLES

'This book is not about Gaza. It is about what has been done to Gaza.'

Gaza: an inquest into its martyrdom, by Norman Finkelstein. ISBN: 9780520295711. University of California Press

This book begins with an excellent summary of how the Palestinian people were forced into Gaza, a sliver of land 25 miles long and five miles wide with 1.8 million people. It is one of the most densely populated areas on the planet – even more than Tokyo.

Under a UN General Assembly approved resolution in 1947 the British mandate was partitioned into a Jewish state comprising 56 per cent of Palestine, and an Arab state of 44 per cent. The war that followed the passing of the resolution saw the newly founded state of Israel expand its borders to incorporate nearly 80 per cent of Palestine. The only areas not conquered were the West Bank (which the Kingdom of Jordan annexed) and the Gaza Strip (which the Egyptian state administered).

The 1948 war saw 250,000 Palestinians driven out of their homes, and their subsequent flight to Gaza. Today, 70 per cent of Gaza's people consist of those expelled there and their descendants. After the 1967 war the Israeli Defence Force further annexed the West Bank and Gaza and imposed military law. Notwithstanding a supposed withdrawal in 2005, militarily, economically and strategically the state of Israel dominates the strip.

However, this book is not purely a history lesson, but a detailed forensic legal analysis refuting the state of Israel's justifications of what are essentially war crimes and crimes against humanity. Finkelstein makes the following observation about the assault on Gaza, that the book 'is about a Big Lie composed of a thousand, often seemingly abstruse and arcane, little lies. The objective of this book is to refute that Big Lie by exposing each of the little lies'. His research and his precise inquest into Israel's wars on Gaza raises many questions about not only the vicious right-wing nature of successive Israeli governments, but also the failure of international law, the human rights industry and the UN to be anything other than bystanders.

Finkelstein mainly analyses the Israeli assaults on the Palestinian people through Operation Cast Lead (2008-09), the Mavi Marmara (2010), and Operation Protective Edge (2014). He is thorough and forensic and (to be honest) it is at times it is an uncomfortable read. As he reports, Gaza only becomes newsworthy within the context of the Israeli leadership asserting 'the right to defend itself'. Comparing two operations, Finkelstein says:

'Operation Cast Lead (2008-9) lasted 12 days, whereas Protective Edge lasted 51 days […] Some 350 children were killed and 6000 homes destroyed during Cast Lead, whereas fully 550 children were killed and 18,000 homes destroyed during Protective Edge. Israel left behind 600,000 tons of rubble in Cast Lead, whereas it left behind 2.5 million tons of rubble in Protective Edge'.

However, it is important to remember that before Operation Cast Lead there was Operation Rainbow (2004), Operation Days of Penitence (2004), Operation Summer Rains and Autumn Clouds (2006) and Operation Hot Winter (2008). These military operations were conducted by an overwhelming military force, against people trapped in an 'open-air prison'.

'It raises questions not only about Israeli governments, but also the failure of international law, the human rights industry and the UN.'

Operation Cast Lead was launched by Israel to (according to their reasoning) avert Hamas rocket attacks. However as Finkelstein points out, 'if Israel wanted to avert Hamas rocket attacks, it would not have triggered them by breaching the 2008 ceasefire'. Or it could have renewed and honoured a new ceasefire. The claim of self-defence to justify the attack, as Finkelstein points out, lacked credibility as they targeted not Hamas strongholds but 'decidedly 'non-terrorist,' non-Hamas sites'. Indeed as documented by *B'Tselem*, between 1st January 2008 and 26th December 2008, 'In Gaza alone, Israel killed at least 158 noncombatants in 2008, while Hamas rocket attacks killed seven Israeli civilians, a ratio of 22:1. Israel deplored the detention by Hamas of one Israeli combatant captured in 2006, yet Israel detained 8,000 Palestinian 'political prisoners' including 60 women and 390 children, of whom 548 were held in administrative detention without charge or trial'.

Yet, as Finkelstein also explains, Operation Cast Lead served real and wider regional-political purposes for Israel. The larger concern was to re-establish the Israeli Defence Force's (IDF) 'invincibility' in the region after they were ejected from Lebanon by Hezbollah in 2000. Finkelstein also argues that the offensive also played a role in 'scotching the threat posed by a new Palestinian "peace offensive"'.

Operation Cast Lead was a human disaster for the people of Gaza. In just four minutes on the first day 300 Gazans were killed. As Amnesty International reported in *Operation Cast Lead: 22 days of death destruction*, the majority of targets were located in 'densely populated residential areas […] the bombardments began at around 11.30am, when the streets were full of civilians, including school children leaving classes at the end of the morning shift and those going to school for the second shift'. The report additionally found that the IDF targeted the infrastructure in Gaza, hospitals, schools, the power station and the water plant. They state this was, 'wanton and resulted from deliberate and unnecessary

A woman and her great-grandson next to a shell hole on the top floor of their home in the Shuja'iyya neighbourhood of Gaza City after the bombing by Israel in 2014.

demolition of property, direct attacks on civilian objects and indiscriminate attacks that failed to distinguish between legitimate military targets and civilian objects'. As Finkelstein documents in a subsequent report from Human Rights Watch, 'virtually every home, factory and orchard had been destroyed in certain areas apparently indicating that a plan of systematic destruction was carried out in these locations'; the IDF itself, as reported in *Haaretz* newspaper, stated that the scale of destruction was legally indefensible.

As Finkelstein reports, the actions of the leaders of the state of Israel, and commanders of the IDF during the course of Operation Cast Lead constituted war crimes. This conclusion was also supported by the Goldstone Report which was unequivocal in its criticism of Israel. Not only did the report conclude a clear case of war crimes, but also that Operation Cast Lead marked a qualitative shift by Israel 'from relatively focused operations to massive and deliberate destruction'.

Finkelstein reports that Israel systematically targeted Gaza's civilian infrastructure: it destroyed or damaged 58,000 homes, 280 schools and nurseries, 1,500 factories, electrical, water, and sewage installations (more than one million Gazans were without power during the invasion and half a million were cut off from running water), 190 greenhouse complexes, 80 per cent of agricultural crops, and nearly a fifth of cultivated land. In all, 1,400 civilians were killed, including 350 children.

Such was the international outrage that the United Nations was forced into commissioning its own report in April 2009. The Goldstone Report, published in September 2009, was an unexpected shock for the state of Israel. It found that much of the devastation was premeditated. Indeed, it held that the military strategy was founded in IDF military strategy. The report found that Operation Cast Lead constituted 'a deliberately disproportionate attack designed to punish, humiliate and terrorize a civilian population'. To the chagrin of the leadership of the state of Israel it also paid tribute to 'the resilience and dignity of the Gazan people'. Finally, as Finkelstein documents, the report recommended that individual states 'start criminal investigations in national courts, using universal jurisdiction, where there is sufficient evidence of the commission of grave breaches of the Geneva Conventions of 1949' – noting Israel's 'seemingly deliberate cruelty' to children.

As Finkelstein documents, the Goldstone Report caused shock waves amongst the Israeli establishment. The response was an avalanche of vicious attacks on the report and the integrity of the authors themselves. It was described as a 'mockery of history', a 'kangaroo court against Israel' (the fact that Israel refused to assist in the investigation was conveniently ignored) and having 'no legal, factual or moral value'.

'Virtually every home, factory and orchard had been destroyed in certain areas indicating that a plan of systematic destruction was carried out.'

Professor Gerald Steinberg of the Bar Ilan University (amazingly, the founder of the university's programme on conflict resolution) declared, 'Israel has the moral right to flatten all of Gaza'.

On 1st April 2011, Richard Goldstone disowned his own report in a piece in the *Washington Post*. In essence his retraction said that he no longer felt that Israel committed war crimes and that it was fully capable of investigating violations of international law. Yet, as Finkelstein assiduously demonstrates, and notwithstanding Goldstone's recantation, a stack of evidence supported the report's original conclusions. Indeed, the other three investigators and contributors to the Goldstone Report issued a statement unequivocally confirming and upholding the original findings.

Finkelstein investigates Goldstone's conversion to Israel's alibis (that Israel does not target civilians but that civilian casualties were due to error, or were collateral to targeting Hamas, and that its grossly disproportionate destructiveness was justified self-defence) and explains that Goldstone attributed his about-turn to a blurry drone photograph of the Al-Samouni family compound that was only disclosed 22 months after the massacre of 29 family members. There was, however, overwhelming evidence that the IDF knew that the Al-Samounis were civilians, and that Israeli soldiers close to the house had warned the commanding officer that the Al-Samounis were civilians.

Yet Finkelstein precisely and methodically examines the findings from the Goldstone Report, the retraction, and the reports from Amnesty International the UN experts. According to the drone photograph, while several men from the family who were gathering firewood were mistaken for militants carrying rocket launchers, the idea that the massacre was just a 'simple mistake' was as a matter of law and fact incorrect. The context >>>

>>> of the attack was that the IDF soldiers were advised that they had a licence to go 'crazy', 'lunatic', 'insane', 'to destroy everything in its way', and 'kill everything that moves'. Goldstone knew this. As John Dugard, the previous UN Special Rapporteur, concluded when responding to Goldstone's retraction, 'there are no new facts that exonerate Israel and that could possibly have led Goldstone to change his mind'.

Finkelstein's view of Goldstone's recantation is damning: 'in one fell swoop, Goldstone inflicted irreparable damage on the cause of truth and justice and the rule of law'.

Operation Cast Lead inflicted a humanitarian disaster on Gaza, which was compounded by a military blockade. As Finkelstein records, even Oxfam noted that 'Contrary to what the Israeli government states, humanitarian aid allowed into Gaza is only a fraction of what is needed to answer the enormous needs of an exhausted people'. The blockade stood despite this, and despite the World Health Organisation, Medical Aid for Palestine and the International Committee for the Red Cross all calling for urgent action. But, with Netanyahu declaring 'no humanitarian crisis', and the United Nations seemingly powerless or unwilling (or both) to intervene, it was left to activists to draw attention to the crisis by launching the Mavi Marmara along with other boats to break the blockade.

International legal opinion agreed that the blockade was not only a form of collective punishment, but unlawful as a matter of international law. So, when nine passengers on the Mavi Marmara were killed, it was a breach of international law and followed the same pattern of previous assaults. First, Israel labelled their victims as terrorists; and second, the pre-planned attack by Israeli commandos was hugely disproportionate as commandos opened fire on the unarmed passengers with tear gas, smoke and stun grenades, and live ammunition.

Picture: Jess Hurd / reportdigital.co.uk

The outrage from Finkelstein in this book is obvious, but each wail about injustice and hypocrisy is based on facts, and supported by evidence.

Whilst the Israeli state attempted to justify these actions, as Finkelstein notes, 'The Israeli commandos did not fire with restraints and only in self-defence; on the contrary, they killed the nine passengers by shooting all but one of them multiple times – five were in the head, and at least six of the nine were killed in a manner consistent with an extralegal, arbitrary, and summary execution'. As the UN report noted, the attack 'demonstrated levels of totally unnecessary and incredible violence. It betrayed an unacceptable level of brutality'. Finkelstein's analysis of these tragic events goes on to fully critique the following whitewash by the UN Panel report. As he comments: 'It must be a first, and surely marks a nadir, in the annals of the United Nations that a report bearing its imprimatur vilified the victims of a murderous assault because they sought to cast light on an ongoing crime against humanity'.

'Amnesty chose to ignore evidence from flawless Israeli sources that Hamas fighters exiting the tunnels targeted Israeli soldiers, not civilians.'

Operation Protective Edge was launched on 8th July 2014. Lasting 51 days, it destroyed 18,000 homes leaving 2.5 million tonnes of rubble. Finkelstein's analysis focuses on the abandonment of Gaza by the human rights industry. It is amazing that Human Rights Watch did not concern itself with what happened, whereas Amnesty International and the UN Human Rights Council wrung their hands.

The facts about Israel's assault on Gaza are stark. While Hamas killed 73 Israelis, of whom only eight per cent were civilians, Israel killed 2,200 Gazas of whom fully 70 per cent were civilians. Israel killed 550 children, and Hamas killed one Israeli child. The ratio of civilian dwelling destroyed was 18,000:1.

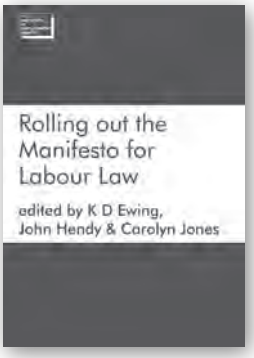
In their subsequent report, Amnesty chose to ignore evidence from flawless Israeli sources that Hamas fighters exiting the tunnels targeted Israeli soldiers, not civilians. Yet the Amnesty and UN investigations of Operation Protective Edge refused to accuse Israel of committing war crimes and crimes against humanity, or of violating the UN Charter or the Geneva Conventions. These reports also presumed an equivalence of suffering by Gazans and by Israelis. The Amnesty report, as Finkelstein impeccably argues, was a betrayal which (as he explains) did not include their own evidence and reports. They dodged the main issue – that Israel had intentionally targeted civilians and destroyed medical facilities, water, power, subsistence and commercial agriculture.

Finkelstein's quotations from Amnesty and from the UNHRC show how their reports distorted or omitted even their own evidence. They evaded acknowledging that Israel intentionally targeted civilians and destroyed the necessities of life, including medical facilities, water and sewage infrastructure, power stations, and subsistence and commercial agriculture. In preparing their report they cited numerous claims from Israel state sources, but then failed to take into account report from the Al Mezan Center for Human Rights and the Palestine Centre for Human Rights.

The outrage from Finkelstein is obvious, but each wail about injustice and hypocrisy is based on facts, and supported by evidence. The book presents and illustrates a pattern in that the state of Israel provokes Hamas, compelling a reaction in which Hamas appears to be the aggressor and the initiator of hostilities. At that point Israel claims its right to defend itself by any means necessary.

In this book Finkelstein expresses outrage that Israel is regularly pardoned not only by the usual suspects, but by the human rights industry itself and the United Nations. In doing so it allows war crimes and crimes against humanity to be a feature of Israel's practices. Finkelstein's systematic and analytical exposé is a necessary read.

Paul Heron



Radical policies for work

Rolling out the Manifesto for Labour Law, edited by K D Ewing, John Hendy & Carolyn Jones. Published by the Institute for Employment Rights (IER), September 2018. To order copies go to: www.ier.org.uk/publications/rolling-out-manifesto-labour-law

In the foreword John McDonnell says, 'It is time for the law to change. As a government in waiting, Labour is committed to transforming the world of work'.

Picture: Jess Hurd / reportdigital.co.uk

Two years ago I reviewed the Institute of Employment Right's *A Manifesto for Labour Law: towards a comprehensive revision of workers' rights* for *Socialist Lawyer* and welcomed a significant advance in the battle of ideas. I questioned whether such an ambitious manifesto for the reform of labour law in the UK would achieve the political will necessary to be implemented. It was with some satisfaction then that the Labour Party adopted key aspects of the IER's Manifesto in its 2017 general election party manifesto. It would be no exaggeration to conclude that the better-than-expected rise in the vote of the Labour Party can be attributed in large part to the promised transformation of workers' rights, which would have consequent improvements for the living standards of workers and their families.

Rolling out the Manifesto for Labour Law is a self-explanatory update of the 2016 publication. It provides detailed policy proposals produced by a specialist group of 26 of the UK's leading labour law experts, explaining precisely what is needed to adapt the law to create fair, just, secure, democratic and productive conditions of work. This is again a timely intervention by the IER, which has been supported by the shadow chancellor John McDonnell, who provides the foreword, stating that, 'It is time for the law to change. As a government in waiting, the Labour Party is committed to transforming the world of work'.

The policy issues addressed include the creation of a new government department to represent the interests of workers in government; a new system of economic governance that puts trade unions at the heart of decision-making at work; a new framework for sectoral collective bargaining to enhance the regulatory role of trade unions; better enterprise democracy and workplace recognition laws to boost the representative role of trade unions; and the radical reform of workers' rights, relating specifically to the employment relationship, zero-hours contracts, equality at work, health and safety regulation, and enforcement of workers' rights (including a proposal for a much-needed comprehensive and powerful Labour Inspectorate).

'Detailed proposals explain precisely what is needed to create fair, just, secure, democratic and productive conditions of work.

It is a radical agenda but no more than what is the minimum necessary to redress the balance, considering decades of ideological attacks on workers' rights, and to bring the UK in line with labour standards that exist elsewhere in Europe. It is therefore important to recall that, with the appropriate political will, the proposals to be rolled out are not dependent for their implementation on Brexit (which is currently dominating politics in the UK). However, as the authors note, of particular concern in this context are the so-called Henry VIII clauses in the European Union (Withdrawal) Act 2018, which will provide the executive with sweeping powers to amend primary legislation without full Parliamentary scrutiny. The survival of the current equality provisions post-withdrawal is far from assured, many on the right having expressed hostility to provisions such as those guaranteeing job-related protection for pregnant women and parents, and those imposing proactive equality-related duties on public authorities. Other likely targets for a right-wing government unconstrained by EU law would be the remedies available to those who succeed in establishing unlawful discrimination. Conversely, it is noted that Brexit may provide an opportunity for a willing British government to allow public authorities to deploy conditions on public procurement more extensively than at present, so allowing public spending to be harnessed in the interests of equality.

The authors are conscious that although the proposals in *Rolling out the Manifesto for Labour Law* are wide-ranging, they are not exhaustive. They acknowledge that they have not dealt with every aspect of the law at work, for example, the law on internal trade union regulation, whistleblowing, blacklisting and the right to take industrial action. There is also a need for a holistic approach to the issue of social welfare and benefits for those not in work or not able to work. Nor is there detailed treatment of unfair dismissal law, though the authors' proposals for a single worker status, the increasing role of sectoral collective bargaining for the resolution of disputes, and the radical overhaul of enforcement mechanisms will address most of the problems arising in that field, while other issues were addressed in the Manifesto.

There is no doubt that the authors' proposals are an important contribution to policy formation on labour law and will, as they suggest, involve 'a radical reconstruction of the architecture governing the workplace.' That is surely a prospect to be welcomed by all readers of *Socialist Lawyer*.

Declan Owens

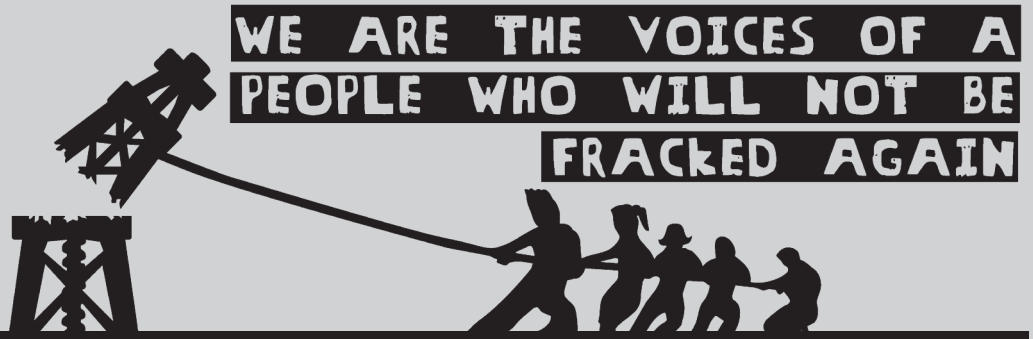
Haldane Society of Socialist Lawyers

Fracking and protest

The Haldane Society is proud to host this meeting with speakers Richard Brigden, Anna Morris and Ewa Barker to discuss the defence of protest, injunctions, and campaigning in light of the quashing of prison sentences for the anti-fracking protesters – the Preston Road Three, and the resumption of fracking by Cuadrilla.

Thursday 22nd November

6pm to 8pm



UNITED AGAINST FRACKING

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Speakers:
Richard Brigden & **Anna Morris**
barristers

Ewa Barker
Anti-fracking activist

at **Garden Court North Chambers**, 3rd Floor, Blackfriars House Parsonage, Manchester M3 2JA

Haldane Society of Socialist Lawyers

Mental health, austerity and capitalism

Thursday 29th November

Speakers:

Rheian Davies
Mental health lawyer

Daniel Carelli
Mental health service user

6.30pm to 8.30pm

Room S101, **University of Law**, 14 Store Street, London WC1E 7DE

For more information:
www.haldane.org
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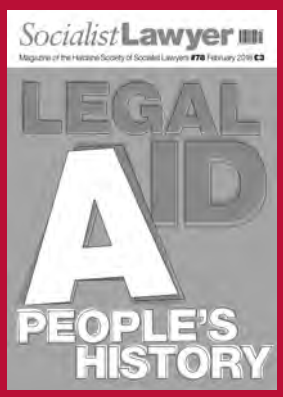

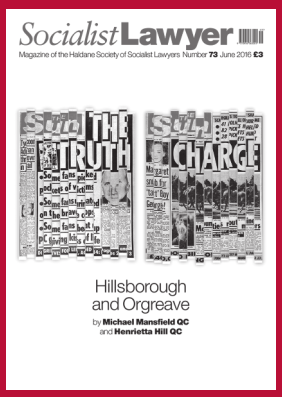

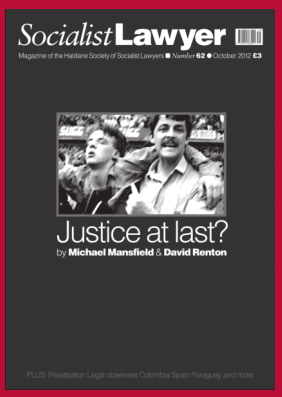

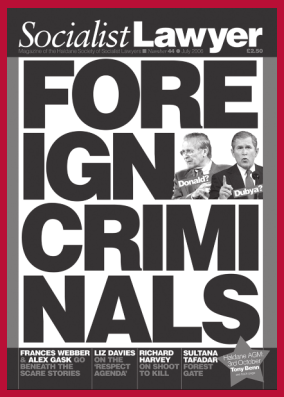

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