Socialist Lawyer

Magazine of the Haldane Society of Socialist Lawyers **#89** 2022-1 **£3**

Haldane Society of Socialist Lawyers

PO Box 64195, London WC1A 9FD
www.haldane.org

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

Socialist Lawyer

Editorial Committee: Maya Thomas Davis, Joe Latimer, Joseph Maggs, Charlotte McLean, Rachel Wall and Liam Welch. Thanks to: Emily Elliott, Margo Munro Kerr, Michael Marshall, Judith Seifert, Jodi Morgan and Art Badivuku
Design & production: Andy Smith+Denise Bell (info@smithplusbell.com)
Print: Rap Spiderweb (www.rapspiderweb.co.uk)
Cover picture: © Jess Hurd
Online distributor: Pluto Journals (plutojournals.com)

MIX Paper from responsible sources FSC® C021423

ISSN:
Print 0954-3635
Online 2055-5369

Picture: © Jess Hurd

Number 89, 2022 #1

Aggressors abroad, degenerates at home

Solidarity with the Ukrainian people in the face of merciless Russian aggression has been near unanimous in Britain.

Thousands have registered to house those fleeing the destruction; some have flown out to support relief efforts at the border; while immigration lawyers, a group reviled by Priti Patel, have offered their services *gratis*.

In contrast to civil society, the government's response has been wanting. Visa schemes have been 'slow and bureaucratic' by the Minister for Refugees' own admission, with Homes for Ukraine in particular drawing criticism for leaving women vulnerable to exploitation.

The impassioned popular response to the war in Ukraine highlights the extent to which other wars and their victims – in Tigray, Yemen, and elsewhere in the Global South – are ignored by state and media.

'Undesirable people' (Black, Brown, Muslim) on the move from these countries continue to drown in the Mediterranean or to freeze and starve in the border zones of Fortress Europe.

Socialists have highlighted the selective nature of western solidarity, not to diminish the plight of Ukrainians but to argue for a real internationalism. And as many have observed with grim irony, the government's vaunted Nationality and Borders Bill (analysed on pages 22-23) could in future be used to prosecute people who find themselves in the Ukrainians' position.

The war has also drawn attention to Europe's dependence on Russian gas and oil, which continues to flow via Ukrainian pipelines despite swingeing sanctions on the Russian economy. As governments search for alternative energy supplies, and in the wake of further dire warnings from the IPCC, Haldane Co-Chair, Declan Owens, provides the first instalment of 'Ecosocialist Eye', a column dedicated to charting the climate crisis and forging a leftward way forward (page 15).

Socialists in Europe are, in the main, far from power. But a principled internationalist left will have a role to play in advocating for an alternative world order to combat this dangerous trajectory toward inter-imperial conflict (see Bill Bowring's analysis of the war on pages 20-21).

Defenestrated Haldanista, Sir Keir (the subject of a new critical biography, reviewed on pages 42-43), has mounted an attack on Stop the War and accused Nato critics of 'showing solidarity with the aggressor': part and parcel of his coordinated assault on the left, and yet another attempt to signal to voters that he can move to the war-mongering mood music of the day.

This edition of *SL* contains much analysis of this authoritarian moment, including a detailed overview of the less discussed Judicial Review and Courts Bill (pages 30-35) and a scathing retrospective of disgraced Met Commissioner Cressida Dick, whose legacy is enshrined in the Policing Bill (pages 26-29). Marking a year since Sarah Everard's murder – the defining moment of Dick's reign – Sisters Uncut reflect on the movement against policing after their recent action outside Charing Cross police station (pages 16-19), an iconic image of which graces the cover.

Putin's turpitude is incontestable, but we will not let it distract us from the degeneracy of our own government, its allies and the system they administer.

socialistlawyer@haldane.org

Wales: spycops and more custody deaths

The Met has been the chief target of scrutiny and rage towards police forces during the pandemic years, but other forces, not least South Wales Police, have been no less deserving.

Last October, Lowri Davies, a law student and co-founder of a grassroots Black Lives Matter group in Swansea went public with a recording of a covert officer trying – unsuccessfully – to recruit her as an informant. It was the first reported, but unlikely the only, attempt by police to infiltrate the BLM movement in Britain.

The officer's self-professed motive, namely to harvest intelligence on the local far right, was probably a thin pretext. Historically, state surveillance has paid less attention to the far right than to movements and campaigns opposed to the dominant economic and social order.

Although a full list of the groups spied on by the Special Demonstration Squad and other undercover units since the late sixties is yet to be published, of those confirmed so far by researchers and in the course of the Undercover Policing Inquiry (which reconvenes again in May) the majority appear to be left-wing or broadly speaking anti-systemic. Indeed, the targeting of BLM activists is part of a longer history of counter-subversive policing featuring, among other iniquities, the surveillance of families and communities campaigning for justice for their loved ones – Stephen Lawrence, Michael Menson and Jean Charles de Menezes, to name only a few – who were killed by civilian racists or by the racist state.

In response, a South Wales Police spokesperson claimed that use of informants (or 'covert human intelligence' as termed by the police) is a 'well-established and highly regulated tactic…controlled within strict legal parameters'.

'Well-established' it certainly is: use of spies and informants became, as EP Thompson argued, 'virtually routine' from the 1790s, before being incorporated into a more sophisticated apparatus of professional policing over the course of the nineteenth century in response to proletarian and anti-colonial struggles. But 'highly regulated' it is not, and nor will it ever be due to the limitless discretion given to officers in discharging their primary duty: the prevention of social disorder and the protection of private property and capital. Cressida Dick's predecessor Bernard Hogan-Howe admitted as much in 2012 when he told the Home Affairs Select Committee that it was 'almost inevitable' that undercover officers would engage in sexual relationships with women activists.

'Police attempts to recruit informers in activist groups is about disruption as much as gathering intelligence.'

Targeting BLM activists is part of a long history of counter-subversive policing.

On 15th February 2022, Swansea BLM announced its disbandment, citing the departure of several members cowed by the recruitment attempt on Davies, as well as experiences of harassment, intimidation and doxxing by the far right. Netpol commented that 'police attempts to recruit informers in activist groups is about disruption as much as gathering intelligence and it takes its toll on campaigners' morale', discouraging them from further political activity. It also deprives a

December

1 Ben Raymond is convicted under Section 11 of the 2000 Terrorism Act, for acting as 'head of propaganda' for a banned neo-Nazi terror group and for possessing documents about homemade detonators.

15 Four Windrush generation descendents lose a High Court battle for the scheme for victims to be widened to include them – children who arrived as adults after 1988 are excluded and do not have a path to citizenship through the scheme, even if they have been resident in the UK for many years.

25 The number of under-18s arrested for terror offences in the 12 months to September 2021, the vast majority in relation to far-right ideology.

22 The convictions of four asylum seekers for driving small boats across the Channel are found unsafe by the Court of Appeal which found systematic failings in such prosecutions. People who cross in small boats to claim asylum could be tagged on arrival under Home Office plans.

28 At least 18 peaceful environmental protesters were sent to British jails in 2021, with 10 spending Christmas Day behind bars.

Pictures: © Jess Hurd

city of sorely needed political resources. The protest organised by the group in June 2020 was the largest and most diverse I have ever seen in Swansea.

Elsewhere in South Wales there have been three recent black deaths following police custody or contact. On 9th January 2021, 24-year-old Mohamud Hassan was found dead in his bedroom in Cardiff just hours after being released from the city centre police station without charge. An initial press release by South Wales Police stated that 'early findings by the force indicate no misconduct issues and no excessive force'. As Dylan Moore noted a few days later, this was 'regurgitated, unchallenged and without qualification' by most reporters. Yet as early as May, six officers had been served with misconduct notices and further details emerged which seriously undermined the police narrative. It was a brutal reminder that the police remain, in the language of Stuart Hall's *Policing the Crisis*, one of the 'primary definers' of news. Since then, the force has continually rebuffed the family's demand for CCTV footage while the IOPC continues its investigation. The inquest is yet to take place.

Like policing, immigration and asylum matters are not devolved in Wales. A month after Hassan's death, 29-year-old Mouayed Bashir died in his family home in Newport after being restrained by police during a mental health crisis. According to his family, who have all been granted leave to remain after coming to the UK as refugees from Sudan, one of the factors contributing to his breakdown was his liability to deportation due to his criminal history. Policing and borders overlap and reinforce each other.

Demands for devolved powers over policing and immigration in Wales must be informed by a radical rethinking of the categories of crime, justice, safety and citizenship, drawing influence from the best of Wales' radical traditions and from movements against state violence across the world. The Senedd's symbolic vote in February 2022 to withdraw consent to the UK government's Nationality and Borders Bill is encouraging, as are the racial justice campaigns fighting on the ground – although as we have seen, the police will do all they can to snuff them out.

Joseph Maggs

'On things like law and order I am quite hardline. I am like, shoot your terrorists and ask questions second.'
Angela Rayner, Deputy Leader of the Labour Party

'In recent years we have seen Doctor Who, Ghostbusters, Luke Skywalker, the Equaliser, all replaced by women, and men are left with the Krays and Tommy Shelby. Is there any wonder we are seeing so many young men committing crime?'
Nick Fletcher, Conservative MP

'I believed implicitly that this was a work event.'
Guess who

January

29 Russia's supreme court ordered the closure of Memorial International, the country's oldest human rights group. Using Russia's controversial "foreign agent" legislation the closure follows the targeting of dozens of NGOs and media outlets seen as critical of the government.

5 More than a million people sign a petition calling on the government to rescind the knighthood given to Tony Blair. Labour Leader Keir Starmer defends the award to the former Prime Minister, saying the honour was 'deserved'.

6 Four people are cleared over the toppling of the Edward Colston statue during a 2020 Black Lives Matter protest in Bristol. They admitted they had helped in throwing it in the River Avon but denied criminal damage, arguing that the statue was so indecent and potentially abusive that it constituted a crime.

'If the jury is a barrier to ensuring they are punished then that needs to be addressed.'
Tom Hunt MP, Vice-Chair of the 'Common Sense Group' of Tory MPs after the Colston verdict.

5 Home Office figures show 447 of 6,066 (only 7 per cent) confirmed trafficking victims who requested leave to remain between April 2016 and June 2021 were granted it, while 4,695 confirmed trafficking victims have had their applications for leave to remain in the UK rejected.

Abused and harassed for doing his job

Debates on academic freedom have been raging in recent years. For much of the last decade we have been arguing more and more about how academics should be able to argue.

In many of the highly sensitive topics of our time, such as trans rights, Palestine, Black Lives Matter or topics as seemingly straightforward as sexual consent, academics have been the victims of targeted abuse, efforts to freeze them out of their jobs and sometimes they have even been attacked or killed. This phenomenon is not something that only happens in far off lands, but something we have to be alert to in any democracy that values academic freedom specifically, and freedom of speech more broadly.

For this reason it is important to highlight the worrying case of Professor Colin Harvey at Queen's University Belfast (QUB). Professor Harvey is by any measure an expert on human rights and their place in the constitutional order of Northern Ireland. He is a former human rights commissioner, former head of the law school at QUB and has a long history of high profile appointments and publications. His public engagement work is precisely what a functioning democracy would expect from an intellectual leader with his experience and expertise.

However, that public engagement work has brought him into the line of fire from those who disagree with him. Disagreement alone is a healthy part of any debate, but in Harvey's case the tone of the comments go far beyond disagreement and into abuse and harassment.

He has been harassed by commentators such as Ruth Dudley Edwards, who proposed he be exiled on a desert island. Along with many other voices on Northern Ireland's future, he was the subject of anonymised Twitter comment by the former Irish senator Eoghan Harris. This trolling is now the subject of libel litigation. House of Lords member Kate Hoey also made insinuations widely understood to refer to Harvey when she stated that she had 'very justified concerns that many professional vocations have become dominated by those of a nationalist persuasion, and this positioning of activists is then used to exert influence on those in power.' Hoey provided no evidence for this assertion which was widely criticised.

'Harvey explores the legal challenges and approaches that would be needed to work towards a united Ireland.'

Alongside these harassments Harvey has recently been advised to collect evidence of other online abuse that he has suffered for his work. He has gathered over 150 pages of social media posts. Some have compared him to a leading Nazi, others suggest that he is an active supporter of the IRA. One menacingly suggested that he should be stripped of his post. This threat to his livelihood was further acted upon when his employer was contacted by each of the three main Unionist parties: the Democratic Unionist Party (DUP), the Ulster Unionist Party and Traditional Unionist Voice.

The attacks are not just words and calls for his resignation. They have real world consequences. In 2020 the DUP blocked Harvey's appointment to an expert panel advising the Northern Ireland Assembly's ad hoc committee on the Bill of Rights. Although it was unclear why the blockage had taken place, the Chair of the committee stated in 2021 it was because the DUP did not want a panel of which Harvey was a member. As a result of this blockage, the committee's report was completed without any advice from an expert panel.

Colin Harvey: not a proper academic?

The overarching tone of these actions, posts and insinuations is that Harvey is not a proper academic but a front man for the IRA. Yet his work is the careful, thoughtful analysis one would expect from a law professor. It explores the legal challenges and approaches that would be needed to work towards a united Ireland. He is an academic exploring the ideas within the Good Friday Agreement in today's political context. This work looks at how a lawful transition to a united Ireland (were it electorally mandated) might take place.

'It is tedious, unglamorous and rather boring, but this is the work that needs to be done in advance,' he told the *Irish Times* earlier this year. 'Nobody wants to repeat the Brexit shambles'.

The attacks, he feels, are an effort to silence those who would contribute to public debate on a united Ireland. He acknowledges that he is in a privileged position as a professor with job security and an established track record. However, for junior academics and other lawyers working in often precarious employment situations, things are different. He is concerned about the chilling effect that these types of attacks will have on junior colleagues. For those on fixed term contracts it is not so easy to put aside the risk of your work becoming the subject of high-profile, baseless and unreasonable attacks. There is a trend in academia today, in parallel with many other professions, towards greater job insecurity, especially for those earlier in their career. This larger picture issue – the damage to

January

10 The Home Office tells a Syrian asylum seeker he can return to the country he fled during the war because it is safe to do so, in what is thought to be the first of its kind.

15 Three Extinction Rebellion activists who targeted London's public transport network to raise alarm about the climate crisis are acquitted by a jury. They had disrupted rush-hour services in east London.

'The Prime Minister will not have lied about any parties.'
Tory Chief Whip Mark Spencer MP

18 Magistrates in England and Wales are to be given more sentencing powers in an attempt to tackle the backlog of cases waiting to be dealt with by the criminal courts. Magistrates will be able to hand out jail terms of up to a year – double the current maximum.

19 Former Guantánamo detainee Moazzam Begg is planning legal action against Priti Patel to try to restore his British passport after an application for a new passport was rejected, even though a terror prosecution relating to his time in Syria collapsed in 2014, when police accepted he was innocent.

academic freedom more generally caused by attacks on him – is something that really bothers Harvey about his situation.

His case has been taken up by leading international human rights organisations including Amnesty International and Human Rights First. Amnesty calls for the British government and academic institutions in Northern Ireland to do everything they can to support Harvey and create a healthy space for academic discussion. Human Rights First places Harvey's treatment in the context of ongoing harassment of lawyers that it outlined in its 2017 report, *A Troubling Turn; The Vilification of Human Rights Lawyers in Northern Ireland*, which details attacks on lawyers by elements of the British press and government officials.

The historical context means such language, as the NGOs note, is particularly invidious in Northern Ireland. A letter of support for Harvey from Fordham Law School in New York puts it thus; 'We know that, post-Brexit, the political dialogue in Northern Ireland has deteriorated, and understand that the history of violence makes the threatening language feel far too close to real danger'.

Harvey's case is not one where he is facing legitimate critique of his work, but one where the tone and context have a chilling effect on the debate itself. He deserves our support and that of Northern Ireland's government, legal and academic communities.

James Mehigan

Our view

by Nick Bano

Cab rank hypocrisy

Dinah Rose QC, a leading human rights lawyer and president of Magdalen College, Oxford, was recently criticised by LGBTQ+ students for her work representing the Cayman Islands' government in an equal marriage case. With one voice the legal establishment dismissed the students' concerns, and criticised them for speaking out. An article by Joshua Rozenberg describing their standpoint as 'highly dangerous' gained dozens of supportive comments. The danger, the argument ran, came from identifying Rose with her clients because of the 'cab rank rule': barristers cannot choose their cases, and must not be judged by their work. That rule, they claimed, is a fundamental part of a fair justice system.

There are some obvious responses to this. Rose is a semi-retired and internationally renowned QC with a busy schedule. It is absurd to think that she could not have found a way around the cab rank rule, and that she was genuinely bound to accept the brief. And Rose is not only a lawyer but the head of an educational institution: she has duties to her students and staff (particularly those who experience homophobia).

But this also raises important conceptual questions about the cab rank rule, and about liberal lawyers' hypocrisy in discussing it.

Rose's supporters argued that it is dangerous to judge a lawyer's character by their clients while, at the same time, their friend Sir Keir Starmer QC has made a habit of doing exactly that. Depending on his audience, Starmer has highlighted his work defending protesters and trade unionists, or sending children to jail as head of the CPS during the 2011 London uprising. 'Please judge my moral character by my legal work and my clients' says Starmer, while Rose's supporters claim that such an approach is a threat to the rule of law. The liberal conception of the cab rank rule is incoherent.

Starmer: 'moral character'.

Picture: Jess Hurd

It is probably useful to think about why the rule exists. The problem it tries to solve is that no lawyer would voluntarily associate themselves with the most unsavoury characters, or those charged with the worst crimes. Without the cab rank rule there might be no representation for Sarah Everard's killer or the 'incel' Plymouth gunman.

But if that's the target, why should it apply universally? There is never going to be a shortage of lawyers willing to represent landlords, so why should I be forced to say 'yes' if a landlord tried to book me? Is the Cayman Islands government, offering a £130,000 fee for the case, really going to struggle to find representation? A blanket application of the cab rank rule is a sledgehammer cracking a nut.

'A blanket application of the cab rank rule is a sledgehammer cracking a nut.'

Of course, it would be wrong to argue that every lawyer should be judged by their clients. As a pupil I was forced to prosecute once, and many (if not most) lawyers are simply unable to choose only the most politically convenient cases. Power is always an issue (which makes it all the more important that Rose is a world-famous QC).

But at same time, if I suddenly decided to represent landlords, it would be laughable if I tried to insist that no one should think any less of me for it. The way a lawyer decides to arrange their practice, while not necessarily definitive, is absolutely something that can be taken into account in assessing their character and their politics. We can be judged for the work we choose to do.

In a characteristically shallow and downwards-punching intervention, legal author The Secret Barrister criticised the LGBTQ+ students and their allies by suggesting that 'meaningful public legal education' would disabuse them of their 'absurd' critique of Rose's behaviour. Better education would apparently reveal that support for the cab rank rule is objectively and unambiguously correct.

The trouble for The Secret Barrister is that Edwin Cameron, former judge of the South Africa Constitutional Court, shares the students' stance. Cameron's degrees from Stellenbosch University, the University of South Africa, and (strikingly) Oxford University were apparently insufficient to bring him around to the Secret Barrister's way of thinking, and the judge instead needs to read The Secret Barrister's book. It must be powerful stuff. Perhaps Starmer should be sent a copy, too.

20 Two asylum seekers who arrived in the UK as children but were wrongly assessed as adults by Home Office-appointed social workers win a victory in the High Court after a judge ruled their treatment had been unlawful.

21 The far-right founder of the English Defence League, Tommy Robinson, is being pursued for an estimated £2m by creditors after he said he was bankrupt during a High Court libel trial. In that trial he was ordered to pay £100,000 in libel damages to a Syrian schoolboy he defamed online.

'He was ambushed by a cake.'

Government Minister Conor Burns MP defends Boris Johnson

'It's not as if he'd robbed a bank.'

Tory MP Andrew Rosindell tries to help out as well

25 Emma Watson is accused of antisemitism by Israel's former Ambassador to the UN after she posted a message of support to the Palestinian cause. An image on Instagram showed a photograph of a pro-Palestinian protest with the banner 'Solidarity is a Verb' written across it.

26 An environmental activist who was deceived into a two-year intimate relationship with an undercover police officer is awarded £229,000 in compensation, after winning a landmark legal case. A tribunal ruled that police had grossly violated the human rights of Kate Wilson in five ways.

Javier: wrongful dismissal success

Claims for detriment on the grounds of trade union membership or activities are notoriously tricky to win, and success stories sometimes feel few and far between.

Identifying the true reasons behind dismissals and detriments can be a vexed evidential question. That's what makes the story of Javier Sanchez Ortiz, a cleaner sacked from the offices of the *Daily Mail* by outsourcing juggernaut Mitie in 2018, all the more encouraging.

Javier had played a role in United Voices of the World's campaign that won a 25 per cent pay rise from Mitie in 2018. Later that year, he slipped and fell over at work, injuring his back. Despite losing out on hundreds of pounds while on statutory sick pay, Mitie claimed that Javier, a loyal employee of eight and a half years, had faked his fall. He was then sacked in his absence, despite having made a valid request to postpone the disciplinary under s.10 of the Employment Relations Act 1999. Linda McKenna, who chaired his incredibly hostile appeal hearing, admitted in evidence that she didn't even hear submissions exploring alternatives to dismissal.

In January 2022, the Tribunal held that Javier's claims against Mitie succeeded in every respect. The Tribunal agreed that the CCTV evidence of the fall was ambiguous at best, and that Mitie's stated reasons behind both the dismissal and the serious procedural shortcomings were unconvincing. They found he was wrongfully dismissed, automatically unfairly dismissed on the grounds of his making use of trade union services, detrimented on grounds related to union membership or activities and that his right to be accompanied by a trade union representative was breached. He was awarded £37,915.31 in damages, including £10,000 for injury to feelings.

Javier Sanchez Ortiz.

Javier had been involved in the successful strike over pay at the Daily Mail.

Though a brilliant success story, the case also shows how severely broken the system is. Javier was sacked in late 2018, but with three delays to his final hearing date (with the latter two postponements being attributed to 'lack of judicial resources') his case was only finally heard in January 2022. There appears to be no working system of according priority to cases which have been postponed once before on the list. Without Javier's incredible resilience and union backing, many Claimants fall by the wayside or take meagre settlement offers rather than battling on to the end.

Moreover, this was an extreme case. Javier's case was won partly on the basis that Mitie had failed to bring their key witness: the dismissing officer. This meant that Mitie was unable to discharge its burden once a *prima facie* case that the dismissal and detriments were on the grounds of trade unionism was raised. Mitie's stated reasons for dismissal (that he had 'falsified company records' in telling them that he had fallen 'genuinely') were remarkably thin.

Legal claims can only therefore be one part of a wider organising strategy that insulates workers from anti-union prejudice on the part of bosses. Ultimately solidarity and resilience are the best tools workers like Javier have in that fight.

Finnian Clarke

February

2 Amnesty Internarional joins other leading human rights groups in stating the Israel's 'system of oppression and domination' over the Palestinians amounts to the international definition of apartheid.

3 Five more members of Insulate Britain are sent to jail and 11 others receive suspended sentences, all convicted of contempt of court for defying injunctions banning their blockades of the M25. Those sent to prison had glued themselves hand in hand on the steps of the Royal Courts of Justice.

The wealth of UK billionaires during the pandemic rose by

22%

Food bank use in the UK during the pandemic rose by

33%

10 Anti-Jewish hate incidents are at a record high level in the UK. The Community Security Trust recorded 2,255 anti-semitic incidents including 173 violent assaults. The annual tally marks a 34 per cent increase from the 2020 total.

12 A coalition of 19 LGBTQ+ organisations led by Stonewall and the Good Law Project calls for the Equality and Human Rights Commission to lose its status as an internationally recognised human rights body amid claims of politicisation and taking a 'determinedly anti-trans stance'.

‘Undercover policing, trade unions and social activism’

This is the title of a conference being held on Saturday 7th May in London, organisers of which say ‘will increase awareness of the impact of political policing on unions and movements for social change since 1968’.

They say: ‘The Undercover Policing Inquiry (UCPI) is investigating five decades of spying, by Metropolitan Police undercover officers, on large sections of social justice activism, trade unions and socialist organisations in England and Wales.’

‘UNITE, Fire Brigades Union, National Union of Mineworkers, Blacklist Support Group plus numerous individual union activists have already been granted core participant status in the inquiry because they were spied on by undercover police.
We know from the inquiry so far, research and press reports that police spies infiltrated many union branches, reported on activists and colluded in blacklisting.’

‘Our first trade union conference was attended by over 200 activists from around the country. At this year’s conference we aim to update on what more we know since the inquiry opened. We will discuss what next in the campaign to stop the UCPI becoming a whitewash, covering up the truth and how we can fight for our democratic rights, including the right to join a union, picket and protest free from state spying and infiltration.’

Haldane’s co-chair, Declan Owens, will host a panel at the conference as part of our Inquiry into Inquiries. Yvette Williams of Justice4Grenfell, Chris Peace of the Orgreave Truth and Justice Campaign, and Dónal O’Driscoll of the Undercover Research Group, a Core Participant in the Spycops Inquiry, will discuss the deep failures of the Inquiries system in providing justice for communities and campaign groups.

Organisers of the day are:

- **Blacklist Support group** (www.hazards.org/blacklistblog/) A justice campaign and support network for anyone caught up in UK construction industry blacklisting scandal. Trade unionists, safety campaigners, lawyers, journalists, academics and environmental activists were all blacklisted by big business.
- **The Monitoring Group** https://tmg-uk.org/ One of the oldest community-based anti-racist organisations in the UK.
- **Campaign Opposing Police Surveillance** http://campaignopposingpolicesurveillance.com/ COPS exists to help co-ordinate, publicise and support the quest for justice for people affected by political undercover police spying and to ensure such abuses do not continue.
- **Police Spies Out Of Lives** https://policespiesoutoflives.org.uk A campaigning support group working to achieve an end to the sexual and psychological abuse of campaigners and others by undercover police officers. They support the women affected to expose the immoral and unjustified practice of undercover relationships, and the institutional prejudices underlying the abuse.

Saturday 7th May
10:30am to 5:30pm at UNITE House, 128 Theobalds Road, London WC1X 8TN. To register go to: https://www.eventbrite.co.uk/e/undercover-policing-trade-unions-and-social-activism-tickets-300225341077

16 Prince Andrew settles the sex assault case filed against him by Virginia Giuffre. The out-of-court settlement is said to be £12 million, sparing the Duke of York the humiliation of giving evidence in a trial. He still says ‘it didn’t happen.’

17 Public confidence in the Metropolitan Police fell sharply over the five years Cressida Dick led the force. A survey finds that only 51 per cent of those in London now believe that the Met does a good job in their local area, down 17 points compared with the last survey in April 2017.

‘Rude and unprofessional.’
Priti Patel’s opinion of Mayor of London Sadiq Khan after he had requested a meeting with Cressida Dick (she resigned instead). By comparison Patel was found by a formal inquiry to have repeatedly bullied her own officials, but refused to resign.

23 Max Hill, Director of Public Prosecutions for England and Wales, is criticised by Victim’s Commissioner Vera Baird for failing to take responsibility for rape convictions being at a record-breaking low. Hill said ‘far too few’ rape cases were reaching the CPS because of decisions made by the police.

24 France extends its time limit for abortion from 12 to 14 weeks. The new time frame is still lower than some other European countries, including England, at 24 weeks. But a special clause remains that gives health practitioners the right to refuse to perform an abortion on ‘moral grounds’.

How a wealthy hospital used a injunction to try to silence a union

Great Ormond Street Hospital (GOSH) is one of the richest hospitals in the world as it owns all the rights to the Peter Pan literary universe. The 2020/21 accounts for the hospital shows it is sitting on cash reserves of £126 million. Yet the hospital is also the location of one of the longest strikes in National Health Service (NHS) history.

Some of the security guards at GOSH, who are predominantly Black, Brown and migrant, have taken over 50 days of strike action, fighting for the same terms and conditions as the predominantly white, in-house staff at the hospital.

The security guards are currently the only workers on site without NHS sick pay at a world-famous hospital amid a global pandemic. The guards are asking for full sick pay and other NHS benefits they are currently denied, including injury, maternity and overtime pay as well as parental leave and pension contributions.

Instead of negotiating with the outsourced security guards, the hospital's trustees have taken legal action against the guards and their union, in an attempt to silence them.

In February, GOSH used a tiny fraction of its cash reserves to get an emergency injunction which banned United Voices of the World (UVW), the GOSH security guards' union, from holding picket lines with more than six people anywhere within 200 metres of the hospital.

The temporary court order, which GOSH won, was an attempt to silence UVW's trademark pickets by stripping them of their lively music and dance. Striking workers and the union were given an indefinite ban from 'waving banners', 'vigorous dancing' or even 'making rapid dramatic movements' within 200 metres of the hospital.

UVW has been shown incredible solidarity wh

This oppressive temporary injunction lasted one week, before the hospital and the union went to the High Court. In the end, all the injunction did was suspend a planned cake sale.

Supporters (left) joined the defiant striking GOSH security guards outside the High Court.

March

1 A senior official has admitted the government knew 15 years before the Grenfell Tower disaster that the plastic-filled cladding panels which fuelled the fatal fire burned 'fast and fierce' and he believed they should not be used on tall buildings.

2 According to a leaked document the Environment Agency has downgraded 93 per cent of prosecutions for serious pollution in England over four years, despite recommendations from frontline staff for the perpetrators to face the highest sanction.

'We're processing thousands as I speak to you.'
Boris Johnson on 7th March. The day before the Home Office had announced that 50 visas had been granted to Ukrainians fleeing the war.

8 Left-wing Labour MPs, including John McDonnell and Diane Abbott, pull out of attending a Stop the War rally after being told if they made any comments at the meeting that were critical of Nato or sought to blame the western alliance for Russia's invasion of Ukraine, it could lead to the whip being withdrawn.

12 High Court judges ruled that the Metropolitan Police breached the human rights of the organisers of the vigil for Sarah Everard by violating their freedom of speech and assembly. Judges said the force had not assessed the potential risk to public health.

…en fighting the injunction.

UVW and GOSH eventually reached a deal to manage pickets outside the building, quashing the draconian injunction. The small union of low-paid, Black, brown and migrant workers resisted GOSH's excessive demands, but was left with no option but to agree to adjustments to evade the prospect of fighting the wealthy hospital in a costly trial.

Pictures: © Jess Hurd

The union vowed to find creative ways to ensure the striking workers' voices continue to be heard and pickets at the hospital have resumed.

Speaking from the picket line recently, striking security guard Erica said: 'GOSH trustees hope to deny us our rights to equality and to speak the truth. But we will not be silenced. We are strong. We are determined.'

UVW had to give assurances to GOSH that there was no trespassing on hospital property or blocking of entrances. Within 50 metres of the hospital, the union agreed not to play music, shout, use megaphones or photograph or video people entering or leaving the hospital.

The tactics from GOSH amounted to an attack on the entire union movement's right to protest. It is also a sneak preview of what life will be like if the Police, Crime, Sentencing and Courts Bill becomes law, allowing employers to severely restrict the ability of unions to hold picket lines, with the threat of fines or imprisonment.

Solidarity with the strikers and their union was extensive with several unions sending messages of support as well as 200 academics writing an open letter.

The guards have embarked on a speaking tour and had meetings with MPs, Trades Councils, Labour party activists, NHS campaigners as well as fellow strikers at several other London hospitals and universities.

The hospital has spent in the region of £40,000 in legal fees to seek these injunctions, an amount of money which could have handsomely covered the costs associated with bringing the 33 outsourced guards in-house, avoiding the strike altogether.

UVW continues to urge the hospital to sit down with the workers and improve their terms and conditions and reiterates its willingness to engage in negotiations.

The outsourced security guards are on strike every Friday in April and will be holding a big strike rally in Queen Square, next to the hospital, on Friday 29th April from 12 noon onwards.

The security guards have also started legal proceedings against GOSH in a group claim in the employment tribunal, along with their cleaner colleagues, for what they are arguing is GOSH's unlawful denial of NHS benefits amounting to indirect race discrimination in breach of the Equality Act 2010. UVW recently won a similar groundbreaking claim against Royal Parks, which the government is intervening in, appealing to prevent 'copycat' claims.

María Bielsa


UVW general secretary Petros Elia addresses the crowd.

15 Criminal barristers in England and Wales vote overwhelmingly to take industrial action in protest at levels of legal aid funding. A ballot by the Criminal Bar Association saw 94 per cent of votes in favour of refusing to accept returns (which is when a barrister steps in to represent a defendant whose original barrister is unable to attend court).

16 An official investigation found that racism was likely to have been an 'influencing factor' when a 15-year-old black child (known as Child Q) was subjected to a police strip search at her Hackney school, that involved exposure of intimate body parts.

1%

The number of black judges in courts and tribunals in England and Wales in 2021, unchanged since 2014

18 Campaigners are to appeal after the high court ruled that the government had acted lawfully by allowing councils to place looked-after children aged 16 and 17 in so-called 'unregulated' accommodation without care or supervision.

18 The likelihood that a prisoner on remand is from a black or minority ethnic background has increased by 17 per cent in six years.

New challenges for democratic lawyers across Europe

Members of the Haldane Society of Socialist Lawyers are proud socialist internationalists.

Haldane is a founder member of both the International Association of Democratic Lawyers (IADL), founded in 1946, and of the European Lawyers for Democracy and Human Rights (ELDH), founded in 1993.

Haldane's International Secretary, Bill Bowring, serves as Co-President of ELDH, which has members in 22 European countries. The ELDH Co-General Secretary is Thomas Schmidt, a trade union lawyer based in Duesseldorf. Haldane's Chair, Declan Owens, serves on the ELDH Executive along with Wendy Pettifer and Deepa Driver; and on the IADL Bureau, with Carlos Orjuela and Richard Harvey. IADL has members in more than 30 countries in every continent except Australasia. Its incoming President and Secretary are Edre Olalia, from the Philippines and Micol Savia from Italy.

Since the last international report in *Socialist Lawyer* #88 at the end of 2021, the ELDH Executive has continued its online meetings every month, with three meetings so far in 2022. The agenda for each Executive meeting is shared with Haldane's Executive Committee (EC), all of whom are welcome to attend. The minutes are also sent to EC members.

Delegates at the Barcelona conference on 19th March 2022.

The last ELDH meeting took place on 27th March 2022, with 12 participants, from six countries.

ELDH now has a new focus.

In January 2022, as a result of an introduction by the ELDH Executive member from the Basque Country, Urko Aiartza, ELDH was approached by Martina Anderson, the European representative of Sinn Fein.

'Sinn Fein have asked for help to generate support for the Irish Unity referendum set out in the Good Friday agreement.'

Sinn Fein is poised to become the largest party in both Northern Ireland and the Republic. She asked for ELDH's help to establish contacts for her to penetrate political, diplomatic and civic society in order to generate support for the Irish Unity referendum as set out in the Good Friday Agreement.

Haldane's Chair, Declan Owens, is now located in Northern Ireland and has taken the lead on behalf of ELDH. There have now been two fruitful online meetings with Sinn Fein. As Declan reported to the Haldane EC meeting on 4th April 2022, he has drafted a Concept Paper which has been welcomed by all parties. He will facilitate an international legal fact finding mission with ELDH and IADL, and will liaise with human rights groups in Ireland, such as the Committee on the Administration of Justice (CAJ).

As a result of the meetings, on 24th March Bill drafted a Statement which reads: 'ELDH condemns the abject failure of the United Kingdom to investigate and prosecute murders which took place 30 or more years ago', which has been posted on the ELDH website: www.eldh.eu.

Continuing solidarity work with our comrades in Turkey can be found in two more statements, published by ELDH on its website. The first, 'Statement against the banning of the Peoples' Democratic Party (HDP)', was signed by many organisations all over the world, while Ceren Uysal, Co-General Secretary of ELDH, and Bill helped to draft a Communication to the European Committee for the Prevention of Torture (CPT) asking the CPT to organise a follow-up visit to İmralı Prison and, in particular, to examine the government's refusal to permit lawyers to visit their clients, including Abdullah Ocalan, who are under isolation in İmralı Prison.

Haldane is also active in Catalonia. Our EC member, Louis Lemkow, is based in Barcelona and is active in the left Catalan Party, Esquerra Republicana (ER) (which means Republican Left). He organised a visit by Bill to Barcelona on 18th-19th March. ER, founded in 1931, is the oldest political organisation in Catalonia, is pro-Catalan independence and social-democratic. It is now the second largest party in the Catalan Parliament, with 33 out of 135 seats. Bill met leading

March

18 Priti Patel's plans to process asylum seekers abroad are facing opposition from her own party, with Tory MPs branding the Home Secretary's scheme as 'clearly ridiculous' before a vote on the nationality and bordes bill.

'This proves that Black Lives do matter. Because a wider European War will kill practically all the white people.'
Giles Coren, in *The Times*

21 Documents released after a lengthy court battle reveal that Cape, one of the UK's biggest manufacturers of asbestos historically withheld information on risks posed by the carcinogenic material and played down its dangers, while lobbying the government for product warnings to be tempered.

5 **The number of black female QCs in England and Wales in 2021**

21 Smacking and slapping children is outlawed in Wales, with people told to contact social services or the police if they see a parent or carer meting out physical punishment. The law will apply to everybody in Wales including visitors. Scotland brought in a ban in November 2020.

'IADL has suffered deep divisions in formulating its response to the invasion of Ukraine by Vladimir Putin.'

parliamentarians of ER and he also spoke at the First Congress of Advocates for the Defence of Civil and Political Rights, organised by Amnesty and Liberty.

ELDH has a sub-committee on Migration. Our Swiss comrade Annina Mullis, of the Democratic Jurists Switzerland (DJS-JDS), reported on the Juventa case in Trapani, Sicily. There are four cases against 21 individuals, including four migrant rights defenders of the *Iuventa* search and rescue ship, and three organisations, including Save the Children and Médecins sans Frontières (MSF). The next hearing will be on 21st May 2022. A coordinating group for trial observation has been established. Annina is participating, and will observe the trial on behalf of ELDH.

Bill has also been assisting our comrades in the Legal Centre Lesvos, in the case which they are bringing to the Strasbourg Court against Greece.

We are encouraging co-operation between the European Democratic Lawyers (AED/EDL) and ELDH. The existence of two parallel organisations of European lawyers is the result of the politics of the post-Second World War period. On 26th June 2022 there will be a joint face-to-face meeting between the two, in Naples, and the following day there will be the first face-to-face Executive Committee meeting this year. Comrades are warmly invited to attend.

ELDH published an updated statement against the invasion of Ukraine on 5th March, see https://eldh.eu/en/.

IADL has suffered deep divisions in formulating its response to the invasion of Ukraine launched by Vladimir Putin on 24th March 2022. Whereas Haldane adopted the concise Statement drafted by Bill dated 8th March 2022, published on the Haldane website, IADL has published two statements, a concise 'IADL statement on Russian military actions in Ukraine' dated 26th February 2022, and a lengthy 'IADL statement on the escalating war in Ukraine: Finding the road to peace', dated 8th March 2022. Bill took part in discussions and was, as Declan reported to the Haldane EC, subjected to personal and defamatory abuse within IADL. On 4th April IADL conducted an online discussion, but remains divided.

On 4th April 2022 Bill was invited to Paris to address as an expert the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe. His presentation has been published on his blog, *bbowring.com*, where it has been viewed by multiple countries.

The next ELDH Executive meeting will take place online on 8th May 2022.

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

Picture: Mina Karenina USW

The Right to Strip is under threat

Sex workers in England, Scotland and Wales operate in a highly criminalised environment. The sale and purchase of sex by consenting adults is legal. However, almost all related activities (such as working together via laws against brothel-keeping) are criminalised, which pushes sex work underground, makes it more dangerous, and denies workers legal recourse. Northern Ireland takes an even more oppressive approach by criminalising the purchase of sex under the 'Nordic Model' (see *SL* #87, page 9).

The one exception is stripping: it is legal to work in a strip club licensed generally as a Sexual Entertainment Venue (SEV) under the Policing and Crime Act 2009 or, in the case of Scotland, the Civic Government (Scotland) Act 1982. Through statutory amendments, these powers were introduced in Scotland in 2015 and everywhere else in the UK in 2009.

According to Home Office guidance, SEV licensing powers were introduced to address concerns that 'existing legislation did not give communities sufficient powers to control where lap dancing clubs were established'. When adopted, local authorities can control the number of SEVs, set conditions and restrictions for licence grants, and refuse licensing applications if, for example, the licence would be inappropriate due to the 'character of the locality'. Licences must be re-applied for annually.

Several authorities have adopted these powers to implement a 'nil-cap' policy, under which SEVs are effectively banned as the maximum number of yearly licences is set at zero. Supporters of nil-cap policies typically claim that the existence of SEVs >>>

'They deserved to break the rules as they had been working so hard.'
Tory MP Michael Fabricant defends the Downing Street parties.

22 On her release Nazanin Zaghari-Ratcliffe has said she should have been released from detention in Iran six years ago. She has challenged the British government to explain why it had not paid the $400m debt to Iran that Tehran said would have brought her release earlier.

'God made man in his own image. He made man and he made woman.'
Jacob Rees-Mogg MP, Minister for Brexit Opportunities and Government Efficiency, on why he is anti-Trans.

23 The journalist and former MP Chris Mullin wins the right to protect his sources in a historic freedom of the press case at the Old Bailey. Mark Lucraft QC ruled it was not in the public interest to force Mullin to hand over data that would identify a man who had confessed to his role in the 1974 Birmingham pub bombings.

24 Journalists at the *Washington Post* reveal that Israel blocked Ukraine from buying NSO Group's Pegasus spyware in 2019 for fear that Russian officials would be angered by the sale of the hacking tool to a regional foe.

>>> contributes to violence against women and girls (VAWG) and are otherwise innately anti-feminist. Support derives from pressure groups such as Not Buying It, which employs tactics such as hiring ex-police officers to covertly film nude strippers without consent. Ironically, the stated aim of such practices is to end female objectification.

Edinburgh voted to introduce a nil-cap on 31st March 2022, with the 'anti-objectification' campaigners claiming a victory of 5-4 (two Labour councillors and three Tories for; two SNP councillors, one Scottish Green and one Liberal Democrat against). Bristol City Council consulted on introducing a nil-cap last year. But the workers are fighting back. Alongside wider campaigning, in January 2022, United Sex Workers wrote to Bristol and Edinburgh Council warning that the introduction of a nil-cap would likely violate the Equality Act 2010 – specifically the provisions relating to the prohibition of indirect gender discrimination and the public sector equality duty (PSED) – and reserved the right to judicial review any adopted policies.

Picture: Mina Karenina USW

Dancers in Edinburgh protest in January 2022 outside the City Chambers.

The legal arguments

The Equality Act prohibits indirect discrimination against those with a protected characteristic, such as 'sex' (taken to also mean gender). Unlawful indirect discrimination occurs where (1) a provision, criterion or practice (PCP) places those with a protected characteristic at a particular disadvantage compared to those who do not share the characteristic, and (2) the PCP is not a proportionate means of achieving a legitimate aim.

A nil-cap constitutes a PCP and causes a clear 'disadvantage' by preventing strippers from working in an occupation, city, and venue of their choice. A PCP that disadvantages strippers automatically disadvantages women because almost all strippers identify as women. Note, there is no requirement for the PCP to explicitly target women: it is enough for a PCP to have a 'disparate and adverse impact on women' (*Allonby v Accrington and Rossendale College* [2001] IRLR 364).

Are nil-cap policies proportionate? Indirect discrimination can be justified only if it is connected to a 'legitimate aim'. In short, we have been arguing that nil-cap policies lack a 'legitimate aim'. The most commonly-cited aim by supporters of the policies is reducing VAWG, yet evidence shows that they cause serious harm to strippers and, in turn, women. The existence of a 'legitimate aim' must be shown by evidence: we do not accept that radical feminist moralism surrounding female objectification qualifies.

Even if a court found a 'legitimate aim', it is difficult to see how a nil-cap policy could be considered proportionate given, amongst other things, the lack of evidence of a 'rational connection' between reducing VAWG and nil-cap policies and that neither council have seemingly sought to strike a fair balance between the purported aim and the disadvantage that would be caused.

Furthermore, the PSED requires councils to give 'due regard' to objectives such as the need to eliminate discrimination, advance equality of opportunity, and tackle prejudice. Ironically, anti-strip club campaigners sometimes refer to the PSED when demanding SEV closures. In their view, the promotion of gender equality means men should not be able to pay for the services of female strippers, which they class as female objectification. Again, it is not disputed that the fact that most strippers are female and that most customers are men reflects patriarchal norms. Bristol City Council considered this extensively in its 2019 Equality Impact Assessment and nonetheless concluded, in our view rightfully, that nil-cap policies were not needed to promote gender equality.

The fight intensifies

There is literally no evidence that SEVs cause or even correlate with VAWG. Anti-SEV campaigners cite either unverified statistics or outdated radical feminist ideas that equate all forms of commercial sex to female exploitation. Generally, sex workers acknowledge that the

Socialist Lawyer spoke to Green councillor Susan Rae, who voted against the Edinburgh nil-cap. 'Workers in the clubs were painted by those in favour of a zero cap, as broken, exploited, weak, addicted victims with chaotic lifestyles and unable to make good life choices. Certainly not the kind of people capable of organising an enormous and robust campaign such as the one this committee in fact witnessed.' Labour's Joan Griffiths, in proposing the nil-cap, said 'It's the right thing for the women of the City.' Clearly though, they must be the 'right' women.

March

25 The Government finally plans to override the Northern Ireland Executive and directly instruct health trusts to provide abortions, which have been legal there since 2019. A High Court judge ruled in 2021 that Secretary of State Brandon Lewis had failed to uphold his duties to provide full services.

25 P&O Ferries broke the law by sacking 800 workers without consultation 'because no union could accept our proposals' the firm's Chief Executive admitted. New crew would receive an hourly rate of £5.15, except on the route where it is bound by the UK's minimum wage law.

April

1 Landmark moment in the US with the creation of the Amazon Labor Union (ALU) in New York, after Staten Island warehouse workers voted to form the first Amazon union outside Europe. Another New York warehouse is to stage a similar vote, with 50 other Amazon sites contacting the ALU for advice and support.

4 More than 80 LGBTQ+ and HIV charities, including Stonewall and the Terrence Higgins Trust are to boycott the Government's first global equality conference, in response to the decision to exclude trans people from 'conversion therapy' ban.

6 No-fault divorce introduced in England and Wales, results in married couples no longer having to allocate blame to legally end their marriage, or separate for years to obtain a divorce.

industry thrives because we live in a patriarchy where female objectification is encouraged, and that it may not exist (or might look very different) in a more equal society. However, radical feminist theory is entirely disconnected from the reality that strippers, most being women, depend on SEVs for their livelihoods. This is not to say stripping is 'empowering' or that strippers report complete autonomy over the work – it is simply to recognise that, like other jobs, it is a form of labour involving the provision of a paid-for service limited by boundaries and conditions.

Unless the Edinburgh vote is overturned, over a hundred workers will be pushed into poverty next year in the likely worst recession since the 1970s. Not only does the adopted nil-cap amount to indirect discrimination, there are serious concerns regarding procedural unfairness and ultra vires use of statutory licensing powers. Two public consultations show minimal support for a nil-cap, strippers concerns were ignored, and pressure groups seriously misled the Council during the pre-vote hearing. Due to legal aid restrictions, United Sex Workers are likely to have to crowd-fund a judicial review.

Danielle Worden

Danielle is a PhD student at UCL and a legal caseworker for United Voices of the World, specialising in claims for the sex worker branch, United Sex Workers. Please follow USW on social media twitter.com/unitedswers. They may need our help for legal costs. www.uvwunion.org.uk/en/sectors/united-sex-workers/

'You have paid a fine. Our loved ones paid with their lives.'

Lobby Akinnola, Covid-19 Bereaved Families for Justice campaign group.

Maintaining a focus on climate justice

Some socialists will object to the prefix 'eco' appearing before the word 'socialism'. This is understandable on the one hand because socialism should be sufficient to save people and planet from the ravages of capitalist exploitation and extraction. However, on the other hand, the Haldane Society has set a specific objective to highlight issues of ecojustice and has noted the realisation that all areas of our practice as lawyers should encompass an awareness of how climate change affects our work. In this sense, all lawyers are climate lawyers and have a responsibility to act, especially socialist lawyers.

This column will now be a regular feature of *Socialist Lawyer*. It will build upon the work we undertook at COP 26 with comrades including the European Lawyers for Democracy and Human Rights and the International Association of Democratic Lawyers. This international work is vital to maintain our historical solidarity with the peoples of the Global South. We will continue to answer the call of the Haldane Society's Vice President, Richard Harvey, of Greenpeace International, and the Haldane member and prominent environmental lawyer, Farhana Yamin, when they addressed our 2020 Annual General Meeting urging us to maintain a focus on climate justice.

Picture: Jess Hurd

Protests and discussions at COP 26 involved a wide range of activists.

IPCC report

The latest report from the UN's Intergovernmental Panel on Climate Change (IPCC) was released in early March 2022. UN Secretary-General, António Guterres, called the report "an atlas of human suffering and a damning indictment of failed climate leadership." It is yet another grave warning about the climate crisis and the urgency of enacting transformative changes to human society to eliminate greenhouse gas emissions.

This is the second part of the IPCC's latest assessment report, an updated, comprehensive review of global knowledge of the climate, which has been seven years in the making and draws on the peer-reviewed work of thousands of scientists. The assessment report is the sixth since the IPCC was first convened by the UN in 1988, and may be the last to be published while there is still some chance of avoiding the worst.

A first instalment, by the IPCC's Working Group 1, published in August 2021, on the physical science of climate change, said the climate crisis was "unequivocally" caused by human actions, resulting in changes that were "unprecedented", with some becoming "irreversible".

This second part, by Working Group 2, deals with the impacts of climate breakdown, sets out areas where the world is most vulnerable, and details how we can try to adapt and protect against some of the impacts.

A third section, due in April 2022, will cover ways to cut greenhouse gas emissions, and the final part, in October, will summarise these lessons for governments meeting in Egypt for the UN COP 27 climate summit.

Content of the IPCC report

The report clearly states Climate Resilient Development is already challenging at current warming levels. It will become more limited if global warming exceeds 1.5°C (2.7°F). In some regions it will be impossible if global warming exceeds 2°C (3.6°F). This key finding underlines the urgency for climate action, focusing on equity and justice. Adequate funding, technology transfer, political commitment and partnership lead to more effective climate change adaptation and emissions reductions.

The report also says:

- Everywhere is affected, with no inhabited region escaping dire impacts from rising temperatures and increasingly extreme weather.
- About half the global population – between 3.3 billion and 3.6 billion people – live in areas "highly vulnerable" to climate change.
- Millions of people face food and water shortages owing to climate change, even at current levels of heating.
- Mass die-offs of species, from trees to corals, are already under way.
- 1.5C above pre-industrial levels constitutes a "critical level" beyond which the impacts of the climate crisis accelerate strongly and some become irreversible.
- Coastal areas around the globe, and small, low-lying islands, face inundation at temperature rises of more than 1.5C.
- Key ecosystems are losing their ability to absorb carbon dioxide, turning them from carbon sinks to carbon sources.
- Some countries have agreed to conserve 30% of the Earth's land, but conserving half may be necessary to restore the ability of natural ecosystems to cope with the damage wreaked on them.

Conclusion

It is clear Haldane lawyers must be at the forefront of the struggle for climate justice in their desire to assist in the overthrow of capitalism. We need system change for climate justice. That system is capitalism and that change and the justice it will inaugur is socialism.

Declan Owens CEO, Ecojustice Legal Action Centre

Sounding the alarm 1 year on

On Saturday 12th March 2022, members of the feminist direct action group Sisters Uncut set off 1,000 rape alarms outside Charing Cross police station.

The date was significant: it marked the one-year anniversary of the Metropolitan Police's violent suppression of a vigil to commemorate Sarah Everard, a young woman killed by a serving Met officer. Addressing the crowd outside Charing Cross police station, Patsy Stevenson, a protestor who went viral after being violently detained at the vigil, said: 'I was arrested on the floor for putting down a candle.'

An Independent Office for Police Conduct report published earlier this year investigated various allegations against officers at Charing Cross police station, which included reports of an officer assaulting his partner, **>>>**

Pictures: © Jess Hurd

Sounding the alarm 1 year on

>>> officers having sex on duty, and officers being present in racist and sexist WhatsApp groups.

The report was a damning insight into the working culture at Charing Cross police station, but its recommendations were tame and barely addressed the structural issues at the heart of the Met's racist and sexist policing. In addition to this working culture, *The Daily Telegraph* has reported that at least 15 women have been killed by police officers since 2009.

The Metropolitan Police's foundational philosophy is rooted in 'policing by consent', the idea that the police's legitimacy is derived from public co-operation rather than enforced by the power of the state.

Sisters Uncut's action was a call from the public to 'withdraw consent from policing'.

Sisters Uncut say there is no way for women to consent to police power given the significant evidence of misogyny embedded within forces across the country. Sisters Uncut advocate for police budgets to be slashed and redirected to funding for domestic and sexual abuse services. *www.sistersuncut.org*

Art Badivuku

Pictures: © Jess Hurd

Russia's war on Uk

Pictures: © Jess Hurd

by BILL BOWRING

At the time of writing, it is Day 45 of Putin's illegal invasion of Ukraine.

In what follows I am careful not to refer to 'Russia', especially since so many Russians are opposed to the war; but to the Kremlin, the Russian regime, and in this case to Putin. The Russian invasion of Ukraine, since 24th February 2022, is Putin's disastrous adventure.

The legal characterisation of the war is straightforward. It is a flagrant violation of the UN Charter: of the sovereignty of Ukraine, and of the Charter's prohibition of the use of force 'against the territorial integrity or political independence of another state, or in any other manner inconsistent with the Purposes of the United Nations.' (Article 2(4).)

Russia cannot claim that it is acting in self-defence, or that it has the authorisation of the UN Security Council. Even the claim of humanitarian intervention, to prevent genocide in the separatist regions of the "DNR" and "LNR" has seemingly been abandoned in its recent submission to the International Court of Justice in the genocide case, *Ukraine v Russia*.

In his televised speech of 21st February 2022 to members of the Russian Security Council, Putin hardly mentioned NATO. He said (in the official Kremlin translation):

'…modern Ukraine was entirely created by Russia or, to be more precise, by Bolshevik, Communist Russia. This process started practically right after the 1917 revolution, and Lenin and his associates did it in a way that was extremely harsh on Russia – by separating, severing what is historically Russian land. Nobody asked the millions of people living there what they thought… Lenin's ideas of what amounted in essence to a confederative state arrangement and a slogan about the right of nations to self-determination, up to secession, were laid in the foundation of Soviet statehood. Initially they were confirmed in the Declaration on the Formation of the USSR in 1922, and later on, after Lenin's death, were enshrined in the 1924 Soviet Constitution.'

So, in Putin's view, Ukraine has no right to exist. He denounces Lenin's 'Right of Nations To Self-Determination'. On this issue, Haldane stands with Lenin (see the special issue of *SL* #53, October 2009, 'The Right to Self-Determination', which can be found on the Haldane website).

Putin is also horrified by the fact that Soviet Ukraine, as a Union Republic of the USSR, became a founding member of the UN in 1945 (as did Belarus) and had its own seat in the General Assembly. In 1991 it became an independent sovereign state with the collapse of the USSR. In 1996, in its first independent Constitution, it created the Autonomous Republic of Crimea with its own Supreme Soviet and privileges for the Russian speaking inhabitants. From that date there was no movement to rejoin Russia. I first visited Donetsk and Crimea in 1992, and many times thereafter.

By the 1997 Partition Treaty between Russia and Ukraine, Ukraine agreed to lease the Crimean port of Sevastopol to Russia for 20 years, until 2017. The treaty also allowed Russia to maintain up to 25,000 troops, and equipment on the Crimean Peninsula. Russia never disputed that Crimea was an integral part of Ukraine, until the Russian Annexation in 2014, when Russia abrogated the Treaty with the illegal annexation of Crimea. In international law , it remains part of Ukraine.

raine

President Yanukovich intended to enter into the Association Agreement with the EU, was reportedly prevented by Russian pressure, and then fled the country during the Maidan revolution, having stolen enormous sums from Ukraine.

So Russia invaded Ukraine from 2014, and started arming the 'separatists' in Donetsk and Luhansk. From 2014 until very recently, Russia insisted that Donetsk and Luhansk remained part of Ukraine, and wanted special status for them. For myself, I can't see why they should not have the status which Crimea had before 2014, within Ukraine.

In 2014 Ukraine had no serious army. Now it has a professional army with experience fighting Russian proxies, armed by Russia, since 2014. It has every legal right to seek support, weapons etc, in its self-defence.

Some on the so-called 'anti-imperialist' left, in reality apologists for Putin, insists that the present war is all the fault of NATO. However, in my view NATO became irrelevant in 1991 with the dissolution of the Warsaw Pact, its opposite number. In 1999 NATO acted illegally and violated its own Charter (which specifies it is a purely defensive organisation) by bombing Serbia. Trump wanted to scrap it. Now, like a zombie, it has returned, thanks to Putin.

There is no prospect of NATO accepting Ukraine as a member in the foreseeable future, and President Zelensky now says it does not want to join, although, as a sovereign state, Ukraine is entitled to invite the forces of any state or organisation onto its territory: that is the basis on which the presence of Russian forces in Syria is lawful in international law.

Ukraine is a highly corrupt state, dominated by warring oligarchs – Poroshenko, Kolomoisky, Firtash and others. Zelensky, a former TV comedian, was said to be the cat's paw of Kolomoisky. But it does have democratic elections and a free media. Having failed to keep his promise to deal with corruption, Zelensky was increasingly unpopular before 24th February. Putin saved him.

Russia is a kleptocracy, a regime of thieving under secret service rule. There are no free elections, and the last independent media have been closed. Putin's regime is increasingly repressive, and Russia suffers from a rapidly diminishing population, an HIV/AIDS epidemic, rabid Covid, and high inflation.

The working class of both countries is getting it in the neck from both regimes, Ukrainian and Russian, and will be the losers if the war since 2014, is further intensified.

We in Haldane and the European Association of Lawyers for Democracy and Human Rights (ELDH) of which we are a member, stand with the workers and with the independent trade unions of both countries. ELDH has member associations in both Ukraine and Russia.

Meanwhile, we can congratulate Putin for three major achievements:

First, he has brought NATO back to life. With Finland and Sweden considering membership, Russia will soon have an even longer border with NATO.

Second, despite having secured Brexit with the help of his admirer Nigel Farage and large sums of Russian money, he has succeeded in uniting the EU, even his friend Victor Orban in Hungary.

Third, as a result of Putin's action, Germany has changed its firmly held policies of so many years.

Legislating violence

Immigration barrister **Zehrah Hasan** looks at the Nationality and Borders Bill, revealing the UK's grotesque and increasing authoritarianism

In March 2021, the Home Secretary, Priti Patel, published the Government's 'New Plan for Immigration'. This has the explicit aims of creating a two-tier system for asylum seekers, to deter so-called 'illegal entry' and to ramp up removals from the UK. The Nationality and Borders Bill (NABB) arrived in July 2021 as the legislative implementation of the state's plans to further criminalise, demonise, ostracise and traumatise migrants in our communities. The Bill will operate alongside other horrific policy measures, such as the Government's announcement in April 2022 that it intends to imminently send hundreds of refugees arriving at the UK border to Rwanda to process their asylum claims. A system which will trap people in offshore detention whilst they wait to find out if they will be expected to 'resettle' in Rwanda (despite the UK accepting a hundred per cent of refugees from Rwanda in 2020) or whether they will be sent back to the place they have fled.

For those experiencing borders or organising against them, it can feel like a perpetual confrontation with the Hydra; that beast from Greek mythology which grows two new heads every time one is destroyed. This is why our resistance has to move beyond a discreet approach and towards a global fight to abolish borders in their entirety.

NABB and Britain's imperial project

To understand NABB, it is best to start with the purpose of border regimes in an imperial core, such as the UK. In *'Border and Rule: Global Migration, Capitalism, and the Rise of Racist Nationalism'*, Harsha Walia writes that the border is 'a key method of imperial state formation, hierarchical social ordering, labor control, and xenophobic nationalism'. Migration is not the crisis, but 'the outcome of the actual crises of capitalism, conquest and climate change'. The rampant oppression of migrants in the UK is certainly nothing new. The foundations of British immigration laws are an extension of the country's colonial project. Namely, to exploit predominantly working class and Black, Brown and Racialised people in the interests of capital extraction and control.

Racism is central to the very existence of laws and policies that create borders, as well as to manufacturing the hostility and hatred that helps to justify and maintain them. By recognising borders as a tool of racial capitalism , and as essential to its survival, we can recognise the functionality of detention, deportations and immigration decisions, as well as their brutality. This is why any critique of NABB cannot be framed as a defence of the status quo. This Bill is an intensified continuation of the UK's long history of racial violence. From the colonial project itself, to the 1981 British Nationality Act, to the 2012 'Hostile Environment Policy', to NABB, immigration law in its totality should be properly understood as what Nadine El-Enany terms 'ongoing expressions of empire'.

Dissecting the beast

Legal workers at the coalface of the immigration system have been scrutinising the main clauses and repressive measures that we will have to tackle once it becomes law.

Changes include a power to deprive people of British citizenship without prior notification, whilst simultaneously creating new routes to settlement and citizenship for others. These are calculated policy decisions which Franz Fanon would characterise as creating a Manichean distinction between citizens and non-citizens: those with rights and those without.

Another abhorrent measure is the move to heighten the surveillance, punishment and criminalisation of people arriving in the UK across the Channel. NABB seeks to provide a border force with powers to stop, search, redirect and seize vessels using maritime enforcement powers. The Bill will further introduce harsher criminal offences for people 'knowingly' arriving in the UK 'without permission', which could result in a prison sentence of up to four years.

Those assisting people into the UK 'unlawfully' also face the brute force of criminalisation, with the Bill increasing the maximum penalty from 14 years to life imprisonment. Whilst the Home Office purports that these changes are an attempt to 'save lives', experience proves that when the state increases its carceral powers, it only increases the suffering and killing of those seeking safety.

Other provisions will raise the standard of proof for asylum seekers, placing what the Home Office and many judges are already doing in asylum cases on a legislative footing. Also of concern are:

- the Government's plans to 'accommodate' asylum seekers in Ministry of Defence buildings akin to Napier Barracks (See *R (NB & Ors) v SSHD* [2020] EWHC 3416 (Admin);
- the barriers the Bill will create for survivors of trafficking and modern slavery;
- the reinstatement of the Detained Fast Track, despite the case *R (Detention Action) v First-tier Tribunal* [2015] EWCA Civ 840 which found an old analogous system to be systematically unfair and unlawful;
- moves to create discriminatory classes of asylum seekers depending on their 'mode' of entry to the UK and timing of their claim;
- priority removal notices and;
- increased detention powers in terrorism cases.

Institutions such as the UNHCR have expressed serious concerns about the Bill and the way it undermines the 1951 Refugee Convention. Campaigners and parliamentarians have highlighted its flagrant breach of human rights and equalities legislation. Lawyers have pointed out that some provisions ignore established case law. However, the problems with this Bill are much bigger than what is 'lawful' or 'unlawful'. NABB represents a comprehensive step into fascism by deepening the racism and violence inherent to the British border regime and perpetuated by those who administer it. It sharply expands the surveillance, policing and incarceration of migrant communities. In short, it heightens border controls in furtherance of social control.

As the above Bill comes into force, the Police, Crime, Sentencing and Courts Bill seeks to limit our freedom to protest against it. Furthermore the Judicial Review and Courts Bill will try to stop us from challenging policies and legal cases stemming from the new legislation, and Human Rights Act reforms will limit people's ability to challenge Home Office decisions and deportations. The law is not neutral, and this Government is making that a starker reality by narrowing the little room we have to navigate within it.

Pictures: Jess Hurd

'We cannot rely on politicians or judges to stop the tyranny. More often than not they will enable it.'

Beyond borders

Immigration lawyers, including myself, work as contradictions, trying to resist the system from the inside. I see the harsh realities of immigration courts every day. How queer and trans people are dehumanised and degraded; how survivors of state and gendered violence are forced to relive their trauma; how Black, Brown and Racialised people are subject to racial abuse and disbelieved; how prejudiced judges and aggressive Home Office representatives make people suffer.

Using the law to challenge the British border is, to paraphrase Audre Lorde, trying to use the master's tools to dismantle the master's house. We can support one client, one family, even one group of people, but by fighting from within, we legitimise the system's very existence, deferring to the state as the ultimate arbiters over migrants' lives.

So, whilst there will be some legal solutions to overturning some of these new measures, we cannot rely on politicians or judges to stop the tyranny. More often than not, those officials will enable it.

The real battle must be fought and won on the streets. We have to reject the system's legitimacy through direct action, through grassroots organising and through a sustained campaign to abolish borders, prisons and the police.

We have to give support, time and energy to groups already working beyond borders and towards our collective liberation, such as Lesbians and Gays Support the Migrants, SOAS Detainee Support, Anti-Raids Networks, Solidarity Knows No Borders, Movement for Justice, BARAC UK and Abolitionist Futures.

If we only try to defeat this Bill, two more heads will grow in its place. Now is the time to eliminate the beast itself.

Zehrah's views are expressed in a personal capacity

THE FIGHT GOES ON

In January 2022, thousands protested against the Police, Crime, Sentencing and Courts Bill, including in Bath, Bristol, Cardiff, Coventry, Liverpool, London, Manchester, Newcastle, Sheffield and Plymouth. The bill has received widespread condemnation from human rights activists, campaigners, academics and opposition parties, in particular because of its attack on the right to protest. The protests also highlighted the Nationality and Borders Bill, which has also been criticised as an attack on asylum seekers and refugee protection. In London (pictured), speakers included John McDonnell, Zita Holbourne and Shami Chakrabati, alongside activists. As we go to print, both bills are in the final stages and are due to become law soon. The fight goes on...

Picture: © Jess Hurd

Cressida Dick: a le
and representatio

Picture: Jess Hurd

sson in reformism n politics

by Joseph Maggs

On 10th February 2022, just a day after declaring that she had 'absolutely no intention' of doing so, Cressida Dick resigned as Met Commissioner after losing the confidence of London's mayor Sadiq Khan. With Boris Johnson's apparent immunity to scandal as a nearby example, Dick's departure was difficult to predict. She could conceivably have seen out the end of her contract, recently extended to April 2024 by Home Secretary Priti Patel with Khan's support. She was a key ally to Johnson and Patel and a willing administrator of their authoritarian political project. But with popular trust in the Met at historic lows after successive revelations of racism, corruption, misogyny and homophobia, the legitimacy not just of the Met but of policing itself was called into question, prompting drastic action from above.

Patel has said she wants Dick's successor to provide 'strong and decisive new leadership' to 'restore public confidence' in the Met. Khan, more wistfully, has expressed hopes for a revival of the ever elusive tradition of 'policing by consent'. This narrow focus on symbolic change at the top, accompanied by vague demands for an 'action plan', is a form of elite-led crisis-management aimed at smothering wider debates on the power and function of the police in a capitalist society and at containing the growth of anti-police and abolitionist ideas and movements in Britain. A retrospective of Dick's senior policing career shows why we should be sceptical of the liberal panaceas of leadership change and reform.

> 'A narrow focus on symbolic change at the top, with vague demands for an "action plan".'

After receiving an elite Oxonian education, in 1983 Dick joined the Met – two years after Brixton rioted against saturation policing; a year after the police corruption investigation Operation Countryman was abandoned in the face of Met hostility and obstruction; and the same year that Colin Roach was suspiciously shot dead in the foyer of Stoke Newington police station. Pervaded by masculine violence, racism and corruption, the Met was not, to put it mildly, an institution worthy of veneration. But Dick never looked back, and her career progression was smooth and swift.

After a stint in Thames Valley Police, in 2001 Dick returned to the fold. Lord Macpherson's landmark finding of institutional racism was still a fresh wound for the force. Until 2003, she led the Met's Diversity Directorate, tasked with overseeing the implementation of Macpherson's recommendations. Minority recruitment and retention policies; racial awareness training; improvements in the recording and investigation of racial violence; substantial legislative changes, at last extending race discrimination legislation to the police – these were significant reforms by Met standards, but their overall impact was limited.

Commissioned early on by the Home Office to investigate the impact of the new training, Gus John discovered widespread rank and file opposition to it and, worse still, no measures in place to assess its operational impact. A deeper problem was the fuelling of a racist culture by new government policies – particularly on counter-terrorism and asylum – and the continuation, more or less unaltered, of oppressive police practices such as stop and search. As Jenny Bourne argued at the time, the fundamental lacuna in Macpherson's analysis was the 'symbiosis between institutional racism and state racism'. Yet according to the Met's top brass, the process of reform was already successful, with Commissioner John Stevens claiming in 2002 that the Met had 'moved on light years'. By contrast, Dick, interviewed a year later on the anniversary of Stephen Lawrence's murder, made the sober admission that it was 'very difficult to imagine a situation where we will say we are no longer institutionally racist'. In the same breath, however, she proudly commended the Met's efforts, comparing them favourably with those of other British institutions, and in time she too would adopt the denialist position.

After moving into the Specialist Crime Directorate in 2003, Dick became responsible for Operation Trident, a specialist unit set >>>

A picture essay of Dick's disastrous tenure. The brutal response to the vigil for Sarah Everard; the Met's call for "proactive policing" of protests by Extinction Rebellion; and the campaign against the policing bill.

>>> up in 1998 to investigate so-called 'black-on-black' gun violence, purportedly out of concern for victims and their families. Trident is best known as the unit that killed Mark Duggan. Following redeployment as an anti-gangs unit in 2012, it is also well known for overseeing the Gangs Matrix database which holds details of suspected gang members, a system which has been widely condemned as discriminatory. Dick moved on long before these developments, but her seamless transition from a diversity role to a unit now infamous in the history of racist policing in London is instructive.

Dick first entered the limelight in 2005. She was the senior commander in charge of the counter-terror squad that fatally shot Brazilian electrician Jean Charles de Menezes after recklessly mistaking him for a suspected suicide bomber. In a climate of racialised post-7/7 paranoia, the press represented his death as collateral damage for the greater good of national security.

Excused of personal culpability by an inquest jury, Dick defended the operation, kept her head down, and continued her rise through the ranks unhindered, becoming an Assistant Commissioner in 2009 and Deputy Commissioner to Commissioner Bernard Hogan-Howe two years later. Before leaving the Met in 2015 for an undisclosed Foreign Office role, Dick allegedly had a hand in the forced retirement of Clive Driscoll, the talented investigator responsible for securing the conviction of two members of the gang who murdered Steve Lawrence. She was also one of the senior officers involved in Operation Midland, a costly failed investigation into child sexual abuse and murder, though once again she was eventually cleared of individual wrongdoing.

Dick's appointment to the top job was announced in February 2017. Supporters of a crudely elitist brand of representation politics marvelled at the appointment of the first ever woman Commissioner. Journalist Martin Kettle gushed that 'her historic appointment is the most dramatic evidence so far of a transformational change in the sociology of British policing'. For the higher echelons, her proven talent in a number of senior operational roles sufficed to dispel concerns over her not having previously led a force (she was rejected for Northern Ireland's top policing job in 2014). Meanwhile, the De Menezes family and other critics objected to her appointment as tantamount to an endorsement of police impunity and a signal that the Met cared little about racialised communities and their experiences of police violence.

The critics were correct. Racist policing was the norm under Dick. Dismissive of allegations of institutional racism, she took the colonial-paternalist view that black people are uniquely prone to violence and need protecting from themselves by the police. Figures for 2019-20 showed use of stop and search powers at a six-year high, with black people nine times more likely to be targeted than white people. Usage increased further during the pandemic alongside disparities in the use of the broad powers granted by the Health Protection Regulations. When the Black Lives Matter protests erupted in summer 2020, Netpol observed excessive use of force, including baton and horse charges, being used disproportionately against racialised protesters. Dick gave no ground, and instead belittled them for their internationalism: 'they might see a video from America and they won't necessarily distinguish between what's happened in America, or even in Nigeria and here'.

On public order policing generally, Dick accelerated the shift towards what Frances Webber calls 'a colonial-style force, designed to protect the powerful against the powerless'. Extinction Rebellion actions across Central London in 2019 were the stimulus for a police lobbying campaign, led by Dick and the National Police Chiefs Council, for new powers to crack down on dissent. By the end of the year Dick was in talks with the Home Secretary 'about possible changes to the law to allow more proactive policing' to prevent 'protracted serious disruption in our city'. This was directly realised in the Police, Crime, Sentencing and Courts Bill currently ping-ponging between the Houses of Parliament. Patel would hardly have needed persuading, but the pre-history of the Bill shows the Met's active role in shaping law and the boundaries of our political culture. Dick's legacy will endure in this extraordinarily repressive piece of legislation which, alongside its draconian

'Dick accelerated the shift towards "a colonial-style force, designed to protect the powerful against the powerless".'

Pictures: Jess Hurd

protest provisions, will intensify the criminalisation of black youths and Traveller communities.

Although not the direct cause of her resignation, the defining event of Dick's reign was probably the abduction, rape and murder of Sarah Everard by serving Met officer Wayne Couzens on 3rd March 2021, and the brutal response to the vigil organised a week later. On the day of Couzens' guilty plea, Dick said in a speech to the Women's Institute that 'sadly, on occasion, I have a bad 'un' in the force'. Aside from its vulgarity, this explanation was simply unconvincing. What provoked outrage and horror was not Couzens' behaviour alone. It was also the fact that his authority and discretion as an officer were instrumental to his actions, and revelations of the institutional character of the Met's failure to properly investigate previous accusations against him for indecent exposure and sexual assault. The Met's standing with women was further damaged in December after two male officers were jailed for misconduct in public office for taking photos of the bodies of two murdered black sisters, and again in January when it was forced to apologise for Koshka Duff's strip search ordeal.

Another reason to demand Dick's resignation came with the publication in summer 2021 of the independent panel report on the murder of private investigator Daniel Morgan in 1987, commissioned by Theresa May after the collapse of the fifth and final investigation due to lack of police disclosure. The panel unabashedly accused the Met of 'institutional corruption' for 'concealing or denying failings, for the sake of the organisation's public image', singling Dick out several times for hindering the panel's access to key classified information during her time as Assistant Commissioner.

There is little evidence that the first gay Commissioner has had a positive impact on the policing of LGBTQ+ people. In December 2021 an inquest jury found that a series of basic investigative failures by the Met led to a further three young queer men being killed by Stephen Port in East London between June 2014 and September 2015. Incompetence alone could not explain failures of this magnitude. The coroner's report, published in January 2022, echoed an earlier IOPC investigation which found that homophobic assumptions about the lives of young gay men may have influenced investigating officers' lack of curiosity and motivation to solve the case. Of the 17 officers investigated by the IOPC, nine were found to have under-performed, but all remained in the force and five were promoted. Repeating an accusation long made by the victims' families and friends, some MPs demanded a public inquiry into 'institutional homophobia' in the Met.

'Party-gate' tarnished Dick's reputation in the eyes of a much broader public. Even so, several liberal commentators essayed to shield the Met from accusations of politicking by arguing that Johnson's 'sleaze' had somehow contaminated an otherwise impeccable force. The final blow was in fact the publication of the IOPC's terse and unforgiving investigation into a group of officers mostly based in Charing Cross station. WhatsApp messages revealed a cesspit of unchallenged racism, misogyny and homophobia. In a scarcely veiled riposte to Dick, the IOPC concluded that 'these incidents are not isolated or simply the behaviour of a few "bad apples"'. It further revealed that of the 14 officers investigated, nine remained in the force, two of them receiving promotions. As with the officers in the botched Stephen Port investigations, this was further evidence of the persistence of the culture of impunity that enabled Dick's ascent in the years after the killing of De Menezes.

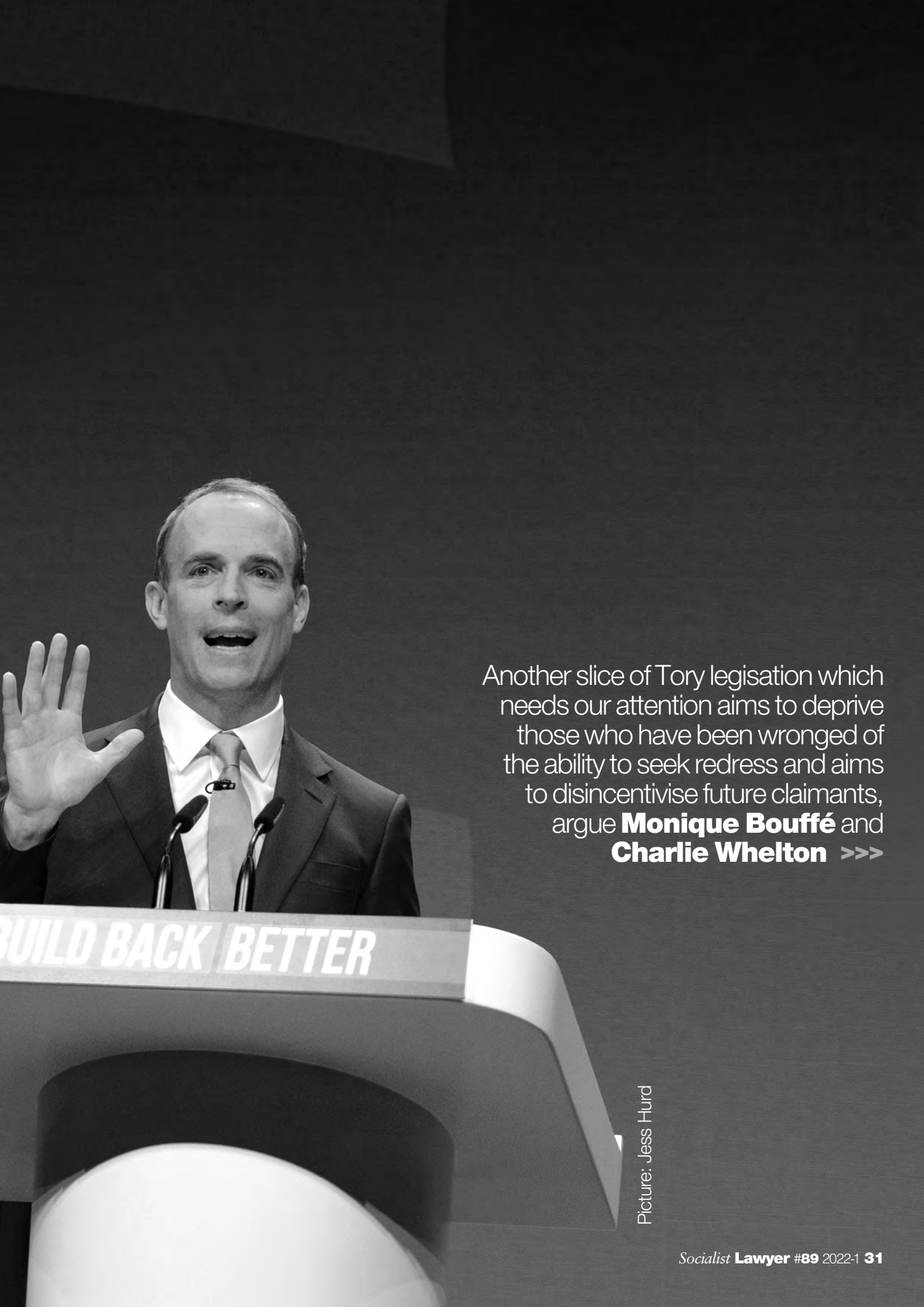
In his excellent book *The State of the Police*, published in the aftermath of the miners' strike, Phil Scraton observed how the ideology of law and order in Britain worked to ensure that 'occasional disclosures of police corruption, malpractice, sexism, racism and even brutality, are portrayed as aberrations'. Occasionally, however, the veil is pierced. The frequency and magnitude of such disclosures during Dick's last two years as Commissioner was sufficient to reveal a systemic pattern of police violence and abuse of power. These incidents are only the most extreme manifestations of what constitutes business as usual for the Met and a constant state of emergency for those on the sharp end of its violence.

Joseph Maggs is a public law caseworker and a trustee of the Institute of Race Relations

'In a scarcely veiled riposte to Dick, the IOPC concluded that "these [Charing Cross] incidents are not isolated or simply the behaviour of a few 'bad apples'".'

The Judicial Review and Courts Bill

The other threat to accountability that is going unnoticed



Another slice of Tory legisation which needs our attention aims to deprive those who have been wronged of the ability to seek redress and aims to disincentivise future claimants, argue **Monique Bouffé** and **Charlie Whelton** >>>

Picture: Jess Hurd

>>> It is a bittersweet reflection that whilst levels of political engagement have visibly increased over the past two years, the reasons for doing so have been grave. Amid the extraordinary circumstances of the pandemic, we have witnessed the Government present a significant programme of reform aimed at consolidating and expanding executive power. We have seen the increasing use of secondary legislation and skeleton bills to bypass Parliament; the crackdown on the right to protest through the Police, Crime, Sentencing and Courts Bill, and the introduction of voter ID and weakening of the Electoral Commission in the Elections Bill. The effect is the same – cutting off routes of accountability wherever they may be.

People of all generations, walks of life and political leanings have taken to the streets and social media to express their outrage at these reforms. Much of the focus of this outrage has been centred on the PCSC Bill in particular, with concerns centring on a significant increase in police powers relating to protest and to stop and search. In contrast, the first wave of commentary about the Judicial Review and Courts Bill was couched in terms of relief that the Government was going to leave judicial review relatively untouched.

We disagree. Far from leaving JR alone, under the guise of giving "more discretion" to judges, it meaningfully restricts their power to give claimants proper redress, whilst removing a vital legal safeguard for some of the most vulnerable individuals in society. The legal profession can, and should, be up in arms about it.

How we got here

In the pursuit of incontrovertible power, the legal profession has faced a great deal of the Government's animus, with attacks on 'activist lawyers', 'political judges', and in the wake of the Colston Four acquittal, even 'woke jurors'. In this context, the 2019 Conservative manifesto promised to take action on the constitution and the relationship between the Government, Parliament and the courts, 'update' the Human Rights Act, and ensure that judicial review "is not abused to conduct politics by other means". This, they said, would "restore trust in our institutions and in how our democracy operates". After plans for a Constitution, Democracy and Rights Commission were rejected as impracticable, a series of individual consultations started with the Independent Review of Administrative Law (IRAL) and a Ministry of Justice consultation that followed it. It is from these that we now have the Judicial Review and Courts Bill ('the Bill').

Although many consider the trigger for this animus to be the two *Miller* cases regarding the invocation of Article 50 and the prorogation of Parliament, it would be inaccurate to say it all started with Brexit. The past 20 years have seen both Conservative and Labour governments expressing frustration over the necessary restraints put on them by judicial review and the Human Rights Act. Both the Coalition and Cameron Governments explored how the Human Rights Act could be repealed. Somewhat ironically, while raising tensions over the role of the courts, it was to a large extent the Brexit referendum that scuppered the plans for a Bill of Rights in 2016.

The replacement of Sir Robert Buckland with Dominic Raab as Justice Secretary in September 2021 has ratcheted up these tensions. Raab's main focus is the Human Rights Act, which he described in his 2009 book *The Assault on Liberty* as forming part of a strategy to "introduce a socialist conception of human rights, fundamentally at odds with the British legacy of liberty going back hundreds of years". However, Raab has judicial review in his sights as well. On JR, his approach compared to his predecessor's was described by a Ministry of Justice source as being a spicy 'vindaloo' to Buckland's milder 'korma'. It was said that the version of the Bill put forward by Buckland was too bland, and it now fell to Raab to spice it up.

This is a deeply concerning statement, as the Bill in its present form stands to deprive those who have been wronged of redress, disincentivise future claimants, and undermine the rule of law. While it is the case that some of the most extreme of the Ministry of Justice's proposals did not make it into the Bill, this does not mean that it should not concern us.

The Government claims that what remains will provide judges with extra tools while protecting them from being pulled into political decisions. Through the introduction of prospective-only remedies and the imposition of a presumption in favour of their use, it will in fact do the opposite.

Quashing Orders

A fundamental, perhaps obvious, principle of public law is that a court cannot do the Government's work for it. For example, if HMP Pentonville were to move an inmate from a Category C block to a Category A, a court cannot move that prisoner to Category C. What it can do it render the decision unlawful, meaning that the Government body either has to make the decision again, but this time with a method which is more compliant with its public law obligations, or drop the decision and forget about it altogether.

A quashing order does just that. It makes the decision unlawful from the moment the order is made. In a sense, the decision never happened.

Timing, therefore, is of the essence. If, at the moment the Judgment is handed down, the decision is effectively reversed, this has wide-ranging consequences on the Claimant. Is their

"Raab's approach compared to his prede
'vindaloo' to Buckland's milder 'korma'. Bu

Picture: Jess Hurd

citizenship restored? Can a woman fleeing violence access safe housing? Can a child return to school? In these kinds of cases, which frequently fill the courtrooms of the Royal Courts of Justice, timing is everything.

Clause 1 of the Bill proposes adding a new clause to the Senior Courts Act 1981: s.29A. This clause provides for quashing orders to have two new effects, which can be used "independently or cumulatively":

29A Further provision in connection with quashing orders
(1) A quashing order may include provision—
(a) for the quashing not to take effect until a date specified in the order, or
(b) removing or limiting any retrospective effect of the quashing.

Changing when and how Judges should quash a decision threatens to undermine the best resource in a claimant lawyer's toolkit, and places Judges in a legal and moral dilemma. Clause 1(9) of the Bill says that they must delay the effect or limit the retrospective effect of the order unless there is a "good reason" not to. "Good reason" is based on a list of factors, which include both the interests of the claimant, and the interests of the government.

Rather than "depoliticising" courts, this clause mandates Judges to take policy interests into consideration. For claimants, this leaves them reliant on the goodwill of Judges to decide if their interests outweigh the interests of "good administration." And for Judges, even those who are most cognisant of the emergencies many claimants are in, prioritising the interests of one party could open themselves to appeal.

Limiting Retrospective Remedies

If this sounds concerning, then consider what limiting the retrospective effect of an order would do. In simple terms, this means that a court could say that only the effects of an unlawful decision that take place after the Judgment is handed down must be remedied – not before.

The consequences of this are easiest conceived in monetary terms. For example, assume a claimant brings a judicial review against the DWP to challenge a decision that they are not eligible for welfare benefits. A court could uphold their challenge, but limit the retrospective effect of the order. This would mean that although they may receive the benefits they are entitled to going forward, they would not be able to recover the benefits they were entitled to in the period preceding the Judgment.

This creates issues both for individual claimants and strategic litigation. A claimant may bring a case with the knowledge that although it may improve the situation of people in the same situation as them, there is a chance >>>

cessor's was described by a Ministry of Justice source as being a spicy ckland's version of the Bill was too bland, so it fell to Raab to spice it up."

>>> that they will not achieve redress for themselves. With this knowledge (particularly if they are not receiving legal aid funding) would a claimant take the risk of bringing a claim?

Lawyers who regularly conduct strategic litigation know all too well that finding a suitable claimant can be the biggest hurdle to getting a claim off the ground. We need a claimant who not only has standing, but is willing to take the risk of litigation, is willing to possibly find themselves on the front page of a national newspaper, and crucially, whose situation is factually serious enough to have a strong case. Could we, in good conscience, ask a claimant whose situation is severe to bring litigation with the possibility of no remedy, when they may be one of the people who need it most?

A remedy that does not provide redress is, by definition, not a remedy at all. Indeed, the European Court of Human Rights found in *Ramirez Sanchez v. France* [GC] 2006 that a remedy that only has a prospective effect is not effective, and is a violation of Article 13 (the right to an effective remedy). The Bill's "safeguard" of a list of factors to guide the court's decision is, in our view, not to be relied upon. Although one of the factors is the interests of the claimant, this is just one factor in a list of others the court much have regard to – one of which explicitly includes "economic and financial insecurity" – i.e. how much it will cost the government. A Judge will inevitably have two competing considerations to weight up – what is best for the claimant, and how to minimise the financial burden on the defendant. The results of this weighing-up exercise will certainly vary from case to case, causing uncertainty for claimants and confusion for lawyers.

"Cart" Judicial Reviews

Clause 2 of the Bill inserts the following clause into the Tribunals, Courts and Enforcement Act 2007:

"1 Finality of decisions by Upper Tribunal about permission to appeal
(1) Subsections (2) and (3) apply in relation to a decision by the Upper Tribunal to refuse permission (or leave) to appeal further to an application under section 11(4)(b).
(2) The decision is final, and not liable to be questioned or set aside in any other court.
(3) In particular—
(a) the Upper Tribunal is not to be regarded as having exceeded its powers by reason of any error made in reaching the decision;
(b) the supervisory jurisdiction does not extend to, and no application or petition for judicial review may be made or brought in relation to, the decision. …

In essence, this moves the ability to judicially review Upper Tribunal decisions to refuse permission to appeal

"Bringing a legal challenge against the government is intimidating and d
that hurdle even higher... and leaves those that do brave the hurdle with t

(known as 'Cart' judicial reviews), other than in exceptional cases. Although the threshold to bring a case is high, the consequences can be life-changing for the claimants involved.

Cart JRs are so-called following the Supreme Court in the case of *R (Cart) v Upper Tribunal*. In this case it was held that if an error of law affected the decision of the First-tier Tribunal ('FTT'), with the result that the refusal of the Upper Tribunal to grant permission to appeal against the decision of the FTT was also affected by an error of law, then, in limited circumstances, the Upper Tribunal decision that denied permission to appeal could be challenges by way of JR. Cart JRs have a high threshold for success: there must be both a 'reasonable prospect of success' and it must either raise an important point of principle or practice, or there is some other compelling reason to hear it.

The importance of Cart JRs, both for the rule of law and the people they concern, cannot be overstated. The majority concern immigration and asylum cases; most of the remainder relate to access to benefits for disabled people and those facing destitution. They are brought on behalf of some of the most marginalised in society and relate to life-or-death decisions. They could affect whether someone will be deported (perhaps to a country where they could face torture or mistreatment); whether someone will be housed, whether someone will be provided with the means to live.

ifficult at the best of times. This Bill drives he possibility of no remedy at all."

Picture: Jess Hurd

The Government justifies the reversal of *Cart* on the basis that Cart JRs constitute a disproportionate use of judicial resources. While this complaint was initially based on success statistics now admitted as incorrectly calculated by at least a factor of 15, the justification remains. But even those who are indifferent to the reversal of *Cart* should be concerned with Clause 2, as it stands to lead to a proliferation of ouster clauses.

In the press release announcing the Bill, the Ministry of Justice wrote that the text that reverses *Cart* "will serve as a framework that can be replicated in other legislation". An attempt to reverse *Privacy International*, excluding the review of decisions of the Investigatory Powers Tribunal, is suggested as a first target. After this, the think tank, Policy Exchange has suggested prorogation, tribunal fees, Freedom of Information requests, ombudsman reports, Acts of devolved legislatures, foreign and defence policy, and decisions about inquiries as the next areas to be brought outside of the scope of judicial review. If Cart is the start of this process, it is very hard to see where it might end.

Conclusion

All in all, this Bill is bad news. Not only will it fundamentally change public law remedies and the way they operate, but it sends the legal profession a clear message: slowly but surely, it will be more difficult to hold the Government to account.

The new provisions on quashing orders enable the Government to enact law without Parliament by giving Judges the power to render an unlawful decision lawful for a period of time in the past, either temporarily or permanently. Usually, this would need to be enacted as retrospective legislation in Parliament and would need to go through all of the usual checks and balances in doing so. Under these provisions, it may be as simple as instructing a persuasive advocate.

The reversal of *Cart* will have an immediate effect leading to people being deported or not receiving the benefits they are entitled to due to errors of law not being caught. It also has the potential to lead to a proliferation of ouster clauses, removing from more and more areas the opportunity to challenge Government decision-making.

The future ramifications are not restricted to ouster clauses either. In February 2022, a senior Ministry of Justice official admitted to the First-tier Tribunal that this Bill was the start, not the end, of the Government's plans relating to judicial review.

Questioned as part of a case brought by Public Law Project challenging a decision made by the Information Commissioner's Office not to require the Ministry of Justice to publish submissions made by Government departments, the official told the Tribunal that "work does continue" on further judicial review reforms. Dominic Raab's suggestion for an annual 'Interpretation Bill' to overturn inconvenient court Judgments was named as the one element that has so far reached the press. It was added that "nothing else is yet in the public domain". This Bill is therefore a first shot: a testing ground for what may follow. If we fail to resist now there will be much more to come.

The Bill may not be as extreme as the Government consultation suggested it might be, but the provisions we are left with are extremely worrying. Bringing a legal challenge against the government is intimidating and difficult at the best of times. The Bill drives that hurdle even higher, confusing claimants at best, completely disincentivising them at worst. Those that do brave the hurdles are left with the possibility of no remedy at all. It creates dilemmas for Judges and pulls them into questions of policy. The 'cherry on top' is that the Bill eradicates a vital legal tool only ever used for the most vulnerable in the most extreme situations.

If passed, this Bill will tip the scales of power away from the courts and towards the executive. It threatens the rule of law. It removes vital protections for marginalised groups. We cannot let it slip through Parliament quietly.

Monique Bouffé is a Pupil Barrister at Outer Temple Chambers. Charlie Whelton is a Policy & Campaigns Officer at Liberty. This article was written with the Bill still live in the House of Lords.

Operation Achille Report pro with loyalists in 1990s South

by Declan Owens

The Haldane Society of Socialist Lawyers recently approved a resolution condemning the involvement of agents of the British Government in the killing of 11 people in South Belfast, as confirmed by the release of the Operation Achille Report on 8th February 2022.

The outcome of this report is vindication for the families' campaign for justice and we pay tribute to Relatives for Justice. It has been our experience that justice is often secured by families and campaign groups rather than by lawyers. In this respect, we are working with the Corbyn Peace and Justice Project to support such families and campaign groups relating to miscarriages of justice, as part of our 'Inquiry into Inquiries'.

The Police Ombudsman upheld the multiple complaints of collusion in every case. Our members' involvement in the Undercover Policing Inquiry reveals a pattern of behaviour by agents of the British state, which was at its very worst in its ongoing occupation of six counties in the North of Ireland.

The report finds that 11 murdered citizens and their families were systemically failed by the British state. It is a damning report that is clear evidence of the policy of collusion as it was practiced in South Belfast, and across the North of Ireland. There have been many other instances of collusion that have been revealed and we continue our longstanding call for a full independent public inquiry into the assassination of our comrade and human rights lawyer, Pat Finucane, where collusion has already been revealed.

The Operation Achille Report outlines a pattern of collusion, including:

- Routine destruction of evidence;
- Routine destruction of documentation;
- Routine failures to share information on murder suspects by RUC Special Branch;
- Routine failures in murder investigations by CID;
- Failures to investigate the known persons involved in importing and distributing weaponry from South Africa;
- Some of those involved in this importation and distribution were police informants;
- RUC Special Branch routinely gave active weapons to the Ulster Defence Association (UDA);

"We continue our call for a full independent public inquiry into the assassination of Pat Finucane, where collusion has already been revealed."

- Police failed to conduct forensic investigations linking murders and murder suspects.

We remain concerned about the ongoing application of the rule of law in the six counties of the North of Ireland, including:

- Continued use of informers despite being suspected of carrying out murders;
- Failure to retain records of informers;
- Absence of control and oversight of informers;
- The protection of informers being prioritised over other issues of injustice;
- Failure to inform individuals of imminent threat to their lives.

In 1983 we organised the International Lawyers' Inquiry into Shoot-to-Kill practices by the security forces, sponsored

ves RUC colluded Belfast murders

by the International Association of Democratic Lawyers, the National Lawyers Guild, National Conference of Black Lawyers, National Council for Civil Liberties (forerunner of today's Liberty), Brehon Irish Law Society of New York and Association for Legal Justice of Northern Ireland.

Our 171-page report documented over 155 unjustified killings by those forces between 1969 and 1985. Well over 50 per cent of all persons shot dead during that period were unarmed individuals killed by British state forces at a time when they were not posing any threat that could justify the use of deadly force. Not a single member of the security forces was found guilty of any of these unjustified killings.

Those who studied Britain's response to decolonisation movements over the preceding decades began to see a familiar pattern. We published our Shoot-to-Kill report in 1985. It received virtually no media coverage.

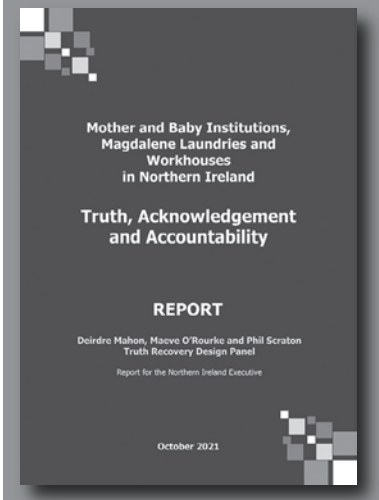
On 30th January 2022, just over 100 years after Britain partitioned Ireland, our Vice President, Richard Harvey, returned to Derry on the 50th anniversary of the Bloody Sunday massacre to walk the streets with his friends and former clients. He heard Bernadette Devlin McAliskey (pictured above) complete her call for justice that was interrupted 50 years ago by the Parachute Regiment's murderous fusilade. Some things have undeniably changed since 1972. Just as in South Africa, the people continue to fight for the ability to pursue self-determination by peaceful means.

The message on the Free Derry Wall in January 2022 ("There is no British Justice") rings as true in Ireland today as it has for over a century. In the words of Haldane's comrade, Seán MacBride in 1983: "Ireland's Right to Sovereignty, Independence and Unity are Inalienable and Indefeasible." That was Haldane's position then and, with due consideration to the 1998 Good Friday Agreement, it remains our position today.

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

Seeking truth, acknowledgem
Mother and Baby Institutions, Magdalene La

by truth recovery panel member
Phil Scraton



To access the full report and for more information go to: https://truthrecoverystrategy.com/panel-launch-truth-recovery-report/

In October 2021 research commissioned by the Northern Ireland Executive into mother and baby institutions, Magdalene Laundries and workhouses in Northern Ireland was published to widespread acclaim. Working closely with victims, survivors and their families, combining documentary analysis and primary interviews, the research report made over eighty recommendations. *The cross-Party Executive accepted the recommendations without modification, committing to full implementation.*

In fulfilling an integrated truth investigation, an independent panel will take evidence from victims, survivors and their families. It will operate in advance of a statutory public inquiry into the operation and servicing of the institutions. Access to personal and policy documents, held by State departments and non-State institutions, will be secured. Implementing measures for redress, reparation and compensation will recognise the institutional injustices and suffering inflicted on victims, survivors and their families by religious and non-governmental organisations in collusion with the State.

Context

Commissioned by the Republic of Ireland's Department of Justice, a 2013 report by McAleese revealed the Irish State's involvement in the Church-run Magdalene Laundries. Extensive media coverage and academic research had followed resolute campaigning; by mothers whose babies had been taken from them, by adults who as babies had been relocated across borders and continents, and by families who had uncovered a history of relocation and the death and burial of babies in unmarked graves. Hidden from official history, the full horror of the institutions well-known in local communities had been revealed.

In 2013, Amnesty International published a briefing on 'Magdalene-type Institutions' in Northern Ireland, noting egregious breaches of the law and international rights standards. It identified three primary objectives: to establish the truth regarding human rights violations; to deliver justice, up to and including prosecutions; and to secure reparations.

The Amnesty International report revealed the harsh and degrading regimes operating without oversight within the institutions. Conditions amounted to incarceration. Residents were malnourished and forced to perform hard manual labour, with minimal rest and inadequate heating. Their post was intercepted and affects of personal identity removed. Rules of silence and prayer were strictly enforced. Young pregnant women were subjected to 'physical and emotional ill-treatment'.

In the same year, the UN Committee Against Torture published a periodic report expressing concern regarding women held in the institutions and those who had endured clerical abuse. It demanded investigation, prosecutions and, where appropriate, punishment. The UN Committee on the Elimination of Discrimination Against Women warned that the Historical Institutional Abuse Inquiry (HIAI), established in Northern Ireland a year earlier, was limited in scope, enabling a 'climate of impunity' while denying appropriate 'remedy' to those suffering systemic abuse.

Four years later, Birth Mothers and Children for Justice in Northern Ireland demanded a public inquiry into ill-treatment and forced adoption within twelve mother and baby institutions operated by religious organisations and the State. The group claimed that in these institutions, women had been detained

nent and accountability
undries and Workhouses in Northern Ireland

against their will, physically and emotionally abused, forced to undertake unpaid labour and had suffered the removal and forced adoption of their babies.

The Northern Ireland Executive responded, establishing an inter-departmental working group to consider evidence of institutional abuse and historical clerical abuse outside the HIAI's remit. Its in-depth research, based on documentary evidence and oral testimonies, focused on women's entry into the institutions, healthcare provision, deaths of women and infant mortality, removal of babies through adoption and consent. The extensive report, authored by McCormick and O'Connell, was published in 2021.

While the report made no recommendations, it was the first historical assessment of Magdalene Laundries in the Northern Ireland context. The research identified an industrial-scale operation, administered with knowledge and support of the State and its institutions – welfare, social work, probation, police. Families and their priests or ministers colluded to punish young women for their pregnancies by a process that was materially exploitative and personally humiliating. Male perpetrators, often extended family members, were not held accountable. Many women remained incarcerated in the Laundries, some becoming institutionalised until death and buried in communal graves.

The research findings were accepted by the Northern Ireland Executive without qualification. Demonstrating rare unanimity, Government ministers committed to appointing an independent panel to work closely with survivors and families in co-designing a proposal and rationale for a full investigation and in-depth inquiry. In March 2021, the Truth Recovery Design Panel was appointed.

Methodology

The three-person panel, supported by a full-time administrator and legal researcher, was convened with the expectation that the research would be initiated, conducted and completed within six months. Its objectives were: to identify the purposes and objectives of a future inquiry or investigation; to make recommendations for its process, membership, support and status (statutory/ non-statutory); to ensure that a future inquiry or investigation could make evidence-based recommendations to Ministers at any stage of the process; to develop and maintain close association with victims and survivors seeking their agreement throughout the process.

The Panel's research progressed in consultation with victims and survivors both within Northern Ireland and internationally. Given the sensitivity of the research, an Ethical Protocol established the principles of privacy, confidentiality, informed consent and information access. This included operational guidelines regarding privacy. A Truth Recovery Strategy website was developed (https://truthrecoverystrategy.com) and an international media information campaign launched.

To maximise participation, confidential registration of interest was logged and detailed questionnaires were distributed to all who contacted the Project. Given the national and international distribution of victims and survivors, and Covid restrictions on face-to-face meetings, on-line conferences were held regularly. Detailed written submissions also were made by Amnesty International and by lawyers representing multiple clients.

Victims and survivors informed the Panel's initial work and its priorities, particularly its publicity and advertising campaigns, poster design, broadcast appeals and, most significantly, the structure and content of the research questionnaire. One hundred and eighty-six detailed written submissions were complemented by personal and group listening sessions and follow-up interviews. Regular contact with the Panel ensured that its recommendations to the Northern Ireland Executive were derived in the submissions and reflective commentaries of victims, survivors and their relatives.

The Report Structure

Following an introductory chapter, the Report proposes a framework essential to addressing the human rights violations that 'victims-survivors and relatives suffered and continue to suffer due to the gender-based institutional, forced labour and family separation system that operated in Northern Ireland with cross-border movements during the 20th Century'. **>>>**

Four voices, multiple lives:

'I have lived with this silently all my life and have felt like I have carried a heavy guilty burden.'

'The report specifies five overarching, detailed and integrated recommendations to meet the justice needs of victims and survivors: integrated guiding principles; the Northern Ireland Executive's responsibilities; an integrated truth investigation; full access to information held by State and non-State organisations; measures for redress, reparation and compensation.'

The Panel: Deirdre Mahon (Chair), Executive Director of Social Work in Health and Social Care, NI; Dr Maeve O'Rourke, Irish Centre for Human Rights, NUI Galway; Professor Phil Scraton, School of Law, Queen's University Belfast.

>>> It is supported by a comprehensive background report by Maeve O'Rourke.

An extensive literature review chapter explores the silencing of victims-survivors through shame, guilt and fear of exposure. Based on recent research critical of the state and religious institutions, it demonstrates how demands for accountability, apology, reparations and independent inquiry have challenged that silencing.

Seven primary research chapters, derived in evidence from victims, survivors and families, focus on: how the research was initiated and developed; truth, disclosure and accountability; access to personal files and official records; the process of adoption and separation; future investigation and inquiry – status, scope and participation; the necessity of delivering justice and memorialising truth beyond the scope of inquiries.

Following analysis of submissions made by legal representatives and other organisations on behalf of victims and survivors, the concluding chapter provides the rationale for an integrated investigation, full access to information and an appropriate process for reparation.

Recommendations

Establishing the scope and terms of reference for subsequent investigations and inquiry were key elements within the Panel's remit. Underpinning its recommendations is a unique proposal for an Independent Panel working with victims, survivors and families to establish the focus and terms of reference of a statutory public inquiry. Access to records, including a statutory obligation for preservation and data protection alongside an independent truth-telling archive, is a priority. Measures to secure redress, reparation and compensation also require immediate attention.

The Report notes the complexity in creating, designing and implementing fully the extensive scope of its unprecedented recommendations. It specifies five overarching, detailed and integrated recommendations to meet the justice needs of victims and survivors: (1) integrated guiding principles; (2) the Northern Ireland Executive's responsibilities; (3) an integrated truth investigation; (4) full access to information held by State and non-State organisations; (5) measures for redress, reparation and compensation.

The first recommendation, Integrated Guiding Principles, are as follows. There must be sufficient resources to guarantee the implementation of all the recommendations. There must be recognition that the human rights of victims and survivors are central to the implementation of the recommendations. For the purpose of the inquiry, access to personal and family histories must be unfettered. Subsequent policy decisions and professional practices must be trauma-informed and responsive to the needs and preferences of victims and survivors. Victims and survivors must be able to actively participate in all subsequent investigations and inquiries, including those beyond Northern Ireland who have been impacted by cross-border transfers.

The second recommendation, Responsibilities of the Northern Ireland Executive Office, ensures full implementation of the Panel's recommendations, including provision of adequate long-term funding. Further, the Executive Office should cooperate with the Irish Government to enable access to records and information regarding cross-border exchanges and transfers of babies. This will establish a firm inter-State

‘The lasting damage done to my mental health has overshadowed my life and the lives of my family.’

‘It has to end with us as we do not want to pass this horrible legacy on to the next generation.’

‘It is time for truth, and I welcome it.’

commitment to the right of victims and survivors to identity, while holding institutions to account.

An Integrated Truth Investigation, the third and most extensive recommendation, proposes an unprecedented process: an Independent Panel of experts preceding and directly informing a statutory Public Inquiry. The former, a legacy of the Hillsborough Independent Panel, establishes a non-adversarial, truth-telling first phase to identify and gather documentary evidence and institutional records, receive written statements from victims, survivors and their families, and hear personal testimonies in a non-adversarial forum.

The Independent Panel’s terms of reference will prioritise: human rights compliance; access to information; involvement of, and accountability to, victims and survivors; accessibility underpinned by necessary personal support; inclusion of those resident outside the jurisdiction. Appointments to the Panel are to be made within six months of the Report’s publication. They will include members with substantial expertise in the sociology of discrimination and gender-based violence, international human rights law and domestic law, trauma-informed practice, genealogy, and archiving.

Further detailed principles inform the proposed statutory Public Inquiry, again placing victims and survivors at the heart of its work. These principles alongside extensive rules of procedure also emphasise the importance of granting core participant status to victims, survivors and relatives, ensuring their involvement at each stage of the process.

The Panel’s fourth recommendation, Access to Records, recognises the ‘ongoing injustice’ endured by those who suffered abuse, were displaced from their birth mothers and have been denied the right to truth and identity. Adopting a rights-based approach to information disclosure, the Report recommends that State and non-State holders of personal records should be required to preserve all documents regarding the policies and practices adopted within their institutions.

Data protection guidance is necessary for agencies holding personal files and their operational policies and practices, specifically regarding identity rights, freedom of expression, non-discrimination and evidence of human rights violations. This will consolidate the Data Protection Impact Assessment that exists already for those who participated in the Panel’s research. New statutory guidance will establish responsibilities of personal data controllers in preserving historical institutional and adoption records.

In response to the recommendations, the Northern Ireland Executive has agreed to progress legislation to initiate a permanent repository of all historical records, including how social care and adoption systems operated. Requirements also include: adequate resourcing; cross-border information repositories; a victims and survivors advisory committee to inform the process; maximum access to information and provision of research; genealogy, family tracing, advocacy and support services; and educational and memorialisation initiatives.

The Panel’s final recommendation, Redress, Reparation and Compensation, responds to victims’ and survivors’ commitment to securing human rights-based redress. This includes formal apologies, material compensation and access to rehabilitation and support services before and during the work of the Independent Panel and Public Inquiry. Funding has been agreed to provide counselling and legal representation for victims and survivors, voluntary DNA testing and family reunification, and memorialisation. A financial redress scheme, not subject to means-testing, is an immediate priority.

Apology

The following statement concludes the Report’s recommendations:

‘The Truth Recovery Strategy Panel together with victims and survivors urge all state, religious and other institutions, agencies, organisations and individuals complicit in the processes of institutionalisation and forced labour, family separation and adoption to act without delay in issuing unqualified apologies. These should clearly: specify their role in the institutional, forced labour and family separation system; accept responsibility for harms done; demonstrate sincerity in their apology; and demonstrate the safeguards now in place to ensure there will be no repetition of the inhumanity and suffering to which they contributed.’

Take a look at the law-man, beating up the wrong guy

Picture: ©Jess Hurd

A new biography shows how Keir Starmer is, first and foremost, dedicated to destroying Jeremy Corbyn, writes **Nick Bano**

I'd been looking forward to this. Whatever your political position, Keir Starmer is an interesting character: within 25 years he went from the radical left (or at least radical-left-adjacent) to accepting appointments as a QC, a knight, and the Director of Public Prosecutions. There must be a lesson here, but it's never been clear to me whether Starmer is a cautionary tale about the scale and pace at which people's politics can change, or whether we ought to beware of ambitious young professionals who use the left as a veneer or a springboard for their careers.

In *The Starmer Project*, Oliver Eagleton argues that people are wrong to see Starmer as an ideology-free political novice. Instead, as leader, Starmer has used his significant bureaucratic skill to 'modernise' the Labour Party by cleansing it of the vestiges of socialism in general, and of Jeremy Corbyn in particular.

It's really an essay – a political intervention – rather than a straight biography. And there's nothing wrong with that, although the author's impressive level of access to key Corbyn-era figures and his enthusiasm for the central set-pieces of his argument (Corbyn's suspension, the forever-war over Brexit policy) contrasts with the more desktop-style research behind the earlier parts of the book.

The Starmer Project: A Journey to the Right, *published by Verso, April 2022.*

Eagleton finds the roots of Starmer's actions as Labour leader in his recent professional past. As shadow Brexit secretary he acted as a sort of autoimmune disease, which drove the various groupings within the party to attack each other. As DPP he was a skilled political operative with reactionary instincts. At one point he found himself outflanked on the left by – of all people – Home Secretary Theresa May and London mayor Boris Johnson over the Gary McKinnon case. Starmer, Eagleton agues, brought a great deal of experience and ideology to his current role.

I don't criticise Eagleton's main argument that Starmer did genuinely have his own political convictions long before he came leader. The book cites early examples to show, for example, that Starmer is process-driven, Atlanticist, anti-protestor, deeply pro-police, and not overly-concerned with the persecution of GRT communities. We're given the sense that the left is a part of *his* past, which he'd excised as part of his political progress, and that he is trying to repeat that process on the scale of the Labour Party as a whole. But I'd hoped to find out more about how this standpoint developed.

By far the most interesting thing about Starmer is not the transition from top prosecutor to anti-left Labour leader, but the transition from *soi-disant* socialist during The End Of History to top prosecutor. How did the 23-year-old who wrote provocative, precocious articles about the police in obscure left-wing journals end up falling in love with the Police Service of Northern Ireland? The PSNI isn't just any old constabulary: as Eagleton points out, while Starmer was responsible for its oversight, Sinn Fein was refusing to engage with a quasi-occupational force.

Eagleton's analysis is that an 'emphasis on legislative fixes supplant[ed] the short-lived dalliance with street-level activism', but 'how?' is the important question. We know that Starmer outgrew his critique of the police long ago, and he must have been inwardly laughing at us when he was photographed taking the knee with Angela Rayner during the Black Lives Matter protests. With the zeal of the convert, he must have seen all of this as another embarrassing dreg of left-wing politics that would soon be modernised away. Starmer is a counter-current to the criticisms of policing that have swelled along with Black Lives Matter, so his political development is worth thinking about.

This, for me, is the key weakness of the book: it's not an origin story, and it misses some of the more incredible features of Starmer's life. The best example of this is Spycops, which is a remarkable bridge between his political beginnings and the high-level professionalism that characterises him now.

Eagleton quite rightly criticises Starmer's failures in respect of Sypcops both as DPP and as Labour leader. He commissioned a whitewash report into

'Starmer is a counter-current to the criticisms of policing that have swelled along with Black Lives Matter...'

Pictured here before speaking alongside Jeremy Corbyn in 2019, Starmer has used his significant bureaucratic skill to 'modernise' the Labour Party by cleansing it of any vestiges of socialism in general, and of Corbyn in particular.

the possibility of Sypcops-tainted convictions at the CPS, and whipped MPs to abstain at all three readings of the Covert Human Informant Sources (Criminal Conduct) Bill. But, as Rob Evans and Paul Lewis point out in their 2014 book *Undercover*, while Starmer was helping Helen Steel and Dave Morris with the 'McLibel' litigation brought by McDonalds, his legal advice was being passed back to the police spy John Dines (who had deceived Steel into a relationship). Evans and Lewis think it 'highly probable' that the 'confidential legal strategy the activists were receiving from Starmer […] was passed on to McDonalds'.

This is an outrage by anyone's standards, and it's hard to imagine how any lawyer would react to their legally privileged advice being shared with both the state and the opposing side. The extraordinary thing is that Starmer was, in a certain sense, a *personal* victim of the Spycops scandal. There are bound to be Home Office reports with his name in them.

How did Starmer react? It's not clear when he found out about the scale of Spycops, or his connection to it, and it was 10 months after he stepped down as DPP that the CPS decided not to prosecute four of the officers who had formed relationships with women (it is unknown whether Starmer's spy, Dines, was among them). But he must have known about it during the passage of the CHIS Bill last year, which introduced legal immunities for covert operatives. Starmer was so passionately unopposed to the Bill that he picked a fight with the PLP over whipping them to abstain (suffering a number of resignations), and ensured the defeat of Shami Chakrabarti's House of Lords amendment, which tried to prevent impunity for undercover agents. I've struggled to understand this, and the book left me wondering still.

From a lawyer's perspective, I had to admire Starmer's anti-hierarchical beginnings in such a rigid profession. He was a founder member of Doughty Street Chambers at just two years' call. He was writing silly, confident pieces in this magazine and elsewhere at a time when many would have seen him as an inexperienced upstart. He seems to have shown a disdain for keeping his head down and gently building a legal practice.

It's clear that he was incredibly busy in the Haldane Society, both as its secretary and as an editor of this magazine. He joined the editorial committee before the second issue had come out in Spring 1987. As I understand it, 20 years later Starmer was on the point of being made an honourary vice-president of the Haldane Society – a position he'd accepted – before his appointment as DPP became public in 2008. He had to resign his membership altogether, the vice-presidency was never announced, and 13 years later the society permanently banned him from re-joining.

Eagleton gives Starmer a great deal of credit as a fleet-footed bureaucrat. As a political operative he comes out of the book looking more effective than McDonnell, Corbyn, and most of the Labour establishment. But, as Eagleton recognises, there is a difference between running a discrete policy agenda and leading a whole political party, let alone a movement, and Starmer has seriously struggled with the larger role. In that respect, Starmer seems to have performed a very valuable function here: he has undermined the assumption that barristers are somehow inherently competent. As leader, Starmer's political instincts are so bad, and his strategy of supporting the government but challenging its processes have been so ineffective, that he's been very useful at challenging the sense of deference which is often, wrongly, given to the legal profession (Eagleton points out that there were calls for Starmer to stand for leader less than a week after he became an MP).

'Starmer has undermined the assumption that barristers are somehow inherently competent.'

While Starmer has held little sway over the electorate, the book shows that he has a very firm grasp on the party itself. He's brought it with him on the journey to the right. At the membership level he has pursued ideological purity by expelling socialists and driving them away. At the PLP level he has, fairly impressively, overseen a collapse of the Socialist Campaign Group. Having made it his mission to exclude Corbyn, and demonstrated his seriousness about excluding the wider left, the SCG MPs seem cowed by the erratic-but-strident way in which Starmer makes his managerial decisions. They've tended to capitulate, rather than leading the Labour left by challenging the worst aspects of Starmerism.

How does a man whose watchword is respectability – which, in the context of the legal profession, means avoiding dishonesty at all costs – make his peace with openly abandoning the leadership pledges on which he was elected? Or with behaving so duplicitously that Len McCluskey (who spent a lifetime confronting both bosses and politicians) abandoned negotiations over Corbyn's suspension on the basis that Starmer is 'completely untrustworthy'? Brilliant though the book is at exposing who Starmer is, it remains an enigma how he got there.

As a final point, the book weighs in at less than 200 pages. This is not a criticism of Eagleton, whose writing is sharp and focused. And it can't be easy to write about someone who has been so very careful about his image since he gave up writing those early articles. But readers might be left hoping that, if they had become a QC by 40, the leader of a complex political party, and the shadow minister for Brexit *during* Brexit, their biographer might be able to find a little more to say.

Nick Bano is a lawyer specialising in housing and homelessness law. Full disclosure: the author is currently under contract to write a book for Verso, the publishers of *The Starmer Project*.

Anna Sorokin (played brilliantly by Julia Garner, left) was released from prison in February 2021 after serving four years in prison for grand larceny, attempted grand larceny and theft of services. At the time of writing, she is in Immigration and Customs Enforcement custody awaiting deportation from the United States.

A tale of narcissism

Inventing Anna, TV, 2022, Netflix

Inventing Anna is the latest offering from Shonda Rhimes, who is best known for *Grey's Anatomy*, *Scandal* and *Bridgerton*. Rhimes is synonymous with complex female characters and a rejection of all-white casts. Her stories often have an air of the ridiculous, and *Inventing Anna* is no exception. It tells the story of Anna Sorokin (aka Anna Delvey) who insinuated her way into the highest echelons of New York society and took what she could. The Netflix story is spiced up with high fashion and a heroic journalist in search of redemption.

Anna's mercenary understanding of our world of social media, influencers, and 'fake it till you make it', allowed her to con and steal, but her ignorance showed when she thought she could do the same in Morocco. She would have ended up in prison much sooner without erstwhile friend Rachel. Her delusions of grandeur and casual cruelty are repulsive, but understandable from someone who considers being called a sociopath a compliment.

Whilst Anna rails against the fact that she is being punished when (in her words) men do worse things every day, it is Vivian Kent the made-up *Manhattan* magazine reporter who breaks the story, who is the true victim of sexism. She endures a misogynistic work culture with a boss who ruined her career by letting her take the fall for his mistake, and then continues to demean her for good measure.

'Sorokin's crimes have brought her fame and fortune, and she has relished the attention.'

Vivian's fellow exiled writers are amongst the best characters, and it's great to see Rhimes bring back brilliant cast members from her previous shows (Katie Lowes; Jeff Perry; Kate Burton). We get the standout performances we expect from Julia Garner (*Ozark*) and Laverne Cox (*Orange is the New Black*), but Anna Chlumsky (Vivian) steals the show.

The entertainment soured when I realised that Netflix paid Anna Sorokin for her story, and that while a large proportion was clawed back by her lawyer and those she defrauded, she was still left with enough for shopping sprees and upmarket hotels upon release from prison. Her crimes have brought her fame and fortune, and she has relished the attention. She called going to trial 'the new sex tape' and tweeted that she wanted a $720 million loan from investers she deceived. She was overjoyed to see herself portrayed on a Times Square billboard by Netflix.

Writing bad cheques, running up unpaid hotel bills and stealing credit card details is not the stuff of a criminal mastermind or a Netflix show. What makes the story noteworthy is that Anna was able to convince people that she belonged to the New York elite. She walked through doors that remain shut to most people despite their true achievements, to enter a club that epitomises inherited wealth and privilege. In this world money is both essential and irrelevant. Because Anna's impersonation was so successful, she lived in luxury for free on Hamptons estates, yachts and a millionaire's New York home.

The story tells us something about class and social mobility. A banker tells Vivian that 'relationships and introductions' govern the circulation of money and opportunity amongst the rich. But deep down, we already know this. Social mobility is declining, and our start in life increasingly dictates the opportunities we receive. Universal basics like education and housing have become increasingly unaffordable, and the burgeoning cost of living crisis will widen the gap between rich and poor. Like *Emily in Paris* or *Gossip Girl*, the hedonistic fantasy of the early episodes of *Inventing Anna* offers an attractive escape from a reality of food banks and obscene utility bills. But the displays of arrogant entitlement may leave you with a bitter taste in your mouth.

Inventing Anna depicts an aspirational world fed by delusion, appearance and fame for fame's sake. It is a tale of narcissism for our time.

Jodie Satterley

Succour for leftie law students

The Critical Legal Pocketbook, by Illan rua Wall, Freya Middleton, Sahar Shah (eds), 2021, paperback/ebook: https://counterpress.org.uk/

There are many reasons why socialists may be attracted to the legal profession. Through an embattled terrain dominated by ruling-class values and systems, the law offers tools for fighting back, and tangible wins that can distract temporarily from the difficulties of a left at low tide. Despite the work of successive neoliberal governments to cut it to shreds, a significant portion of civil law remains dedicated to defending the hard-won rights of tenants, workers, migrants, homeless people, children in care and many other groups facing disempowerment.

I share many socialists' concerns about law: that it can individualise and re-entrench people's problems, prevent them from fighting back for themselves. But in a system that throws up legal barriers all over the place when people try to resist, it seemed as good a life's work as any to help tear those barriers down.

The first battle in the war a socialist lawyer will fight is on a law degree. Once they've found the money to pay their fees or living costs, they will encounter a host of topics on the syllabus that bear little relation to their interests. This is especially true of the Graduate Diploma in Law (GDL), the shortened version of a conventional law degree. The course focuses on topics like contract law, land law, equity and trusts, with nothing concrete on housing, immigration, employment, welfare, debt. There are moments when course content hints at the real-world struggles students might one day engage in – employers' liability for accidents at work, for example, or squatters' rights. But overall, there's little justice in the case law a law student must read, or the way we are taught to read it. Critical thinking about the role of law in society is barely touched upon in the GDL, and cases are studied without historical context, particularly jarring for anyone who wants to understand the historical processes that create the laws that govern us.

'Despite its slightly chaotic and eclectic editing and selection of essays, it was a breath of fresh air.'

I soon found myself desperate for a different kind of education. This was when I was recommended *The Critical Legal Pocketbook*. Despite its slightly chaotic and eclectic editing and selection of essays, the collection was a breath of fresh air. In fact, its slight vibe of chaos was just what I needed after months of legal logic's drab orderliness (orderliness that hides, in its austere certainty, the intense turmoil of the world outside the courtroom).

Even the Table of Contents was a delight on first sight. 'On What Passes For Legal Theory' and 'How to Run an Empire (Lawfully)' were initial favourites, promising searing critique, humour and the kinds of analysis the course wasn't offering. There was 'The Biopolitics of Environmental Law', 'Trusts and Kleptocracy', and the simple but promising 'Money', as well as short chapters introducing social reproduction theory, the state, ideology and other core concepts a student can use to think critically about law. With 40 chapters of varying lengths by a diverse range of authors, the book loosely maps onto the topics of UK law courses, but enriches them by providing critical perspectives entirely absent from official course content. As the introduction outlines, the editors have taken a wide approach to what's 'critical', bringing together intersectional feminists, Marxists, ecosocialists and others, aiming to showcase the range of critical thinking that's possible in law, rather than pick one coherent strand or framing narrative. Having said that, this collection contains no postmodernist scattiness, 'critical theory' as an excuse for evading commitment; every author seems dedicated to making a better world.

Particularly strong chapters include Máiréad Enright's 'Contract Law and Empire', which uses stark examples to show how judges can administer the most inhuman verdicts in the name of the rule of law and natural justice; Sahar Shah's 'Unreasonable Expectations', which deals in beautiful, cutting prose with the way law textbooks reproduce stories of the white bourgeois rights-bearing man; and Colin Murray's 'The Radical Fringes of Tort Law', which explores how tort law can be used to challenge sexual violence and state crimes where criminal courts or official policy fail.

I couldn't have found this book at a better time: just when I was considering dropping off the GDL, when the barriers – financial and psychological – to becoming a lawyer felt too overwhelming. Stephen Connolly's insight gave me the rallying cry I needed:

The deviant student is just that one who questions the non-fit of their own way of thinking about the world with the pre-set 'common sense' to which all law students are expected to accede.

If questioning my own 'non-fit' is allowed, and others have done it before me, then I'm happy to continue as a 'deviant student'. This book was a glass of water in a very long, dry academic year.

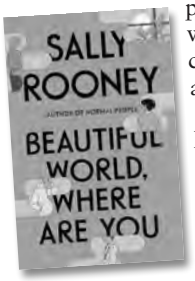
If you know a leftie law student, buy the *Pocketbook* for their next birthday. It'll cheer them up.

Kate Bradley

Frustrated generation

Beautiful World, Where Are You by Sally Rooney, Faber & Faber

When did beauty die? What connects conservatism and 'rapacious market capitalism'? What's the price of success? Is anyone working class anymore? Can you find true love on Tinder?



Sally Rooney attempts to answer these questions and more in *Beautiful World, Where Are You*, a work that discusses not only the pressures and puzzles of fame but also love, capitalism, beauty, gender, and art.

It is perhaps the greatest honour that can be bestowed upon a novel today that it receives an adaptation to the screen. Movie adaptations are in fashion, perhaps most recently with Denis Villeneuve's critically acclaimed adaptation of *Dune*.

By this marker, Rooney can place herself amongst the premier contemporary writers. Not only was her smash-hit novel *Normal* >>>

>>> *People* transformed into an equally popular TV show, but her debut, *Conversations with Friends*, is also currently being adapted. It is in the midst of this success that Rooney publishes her third novel.

Beautiful World weaves together the love lives of four friends, focusing mainly on the two women, Alice and Eileen. Two Marxist friends from university, they are struggling to find their place in the world. Alice is a successful author struggling with fame, while Eileen is a top student who finds herself doing grunt-work at a literary magazine.

The novel comes alive through careful, realistic characterisation. Rooney represents in her characters the current generation of graduates who are frustrated with capitalism but unsure what to do about it. When Eileen and a friend debate at a bar their relative working-class status, it's hard not to feel nostalgia for one's own late-night political debates. Rooney is at her best here – tapping into the lived experience of a generation, reflecting not only the way they live their lives, but the way they think about them.

These debates are combined with amusing and intense email exchanges between Alice and Eileen. They allow Rooney to essentially compose mini-essays, while also actualising these individuals as real people facing real problems.

Despite this, *Beautiful World* falls down in an area typical of Rooney's other works: the characters aren't likeable. You don't have to like them to enjoy a novel, but it helps. Having to find ways to look past the dubious actions and motives of the protagonists makes it difficult to root for them in their private lives. I often found myself rolling my eyes or silently screaming at some of their decisions.

Nevertheless, here's another novel that will soon be on TV with another cast of beautiful actors. For many, Rooney is the writer of a generation, and she's certainly trying her best to fill that void.

Sam Mitchinson

Time: drained and misconstrued

'A Just Share' the case for minimum wage reform by Kate Ewing, published by the Institue of Employment Rights: www.ier.org.uk

This booklet makes a timely and pointed critique of the UK's national minimum wage legislation. The author, Kate Ewing, urgently articulates the need for reforms in the context of a delayed Employment Bill and a back-to-business rush after ending Covid-19 restrictions. The pandemic exposed layers of exploitation and vulnerability of key workers' households, with one million children living in poverty and food workers unable to afford basic livelihood. Ewing's contribution is therefore a demand for accountability to a government that has so far only paid lip service to frontline workers' efforts during the pandemic peak while claiming that it 'wants to make the UK the best place to live and work'. It is also a reminder that a lack of pay security and dignity for millions of people is being wilfully and systematically ignored or tolerated, if not tacitly enabled. It finally spurs a call for action beyond reactive piecemeal reforms, proposing long-term, union-led, enforceable measures that address workers' lives practically and materially instead.

The strength of the report lies in questioning the paradoxical functioning of the National Minimum Wage (NMW) framework. Rights protect us only insofar as we are included within the limits of a protected category; simultaneously they exclude us if we fall outside accepted definitions. Ewing analyses three cases conjunctly, so as to expose the interrelated legislative thresholds that employers have exploited to progressively curtail workers' access to minimum wage protection, namely the denial of employment status, the narrowing of reckonable time, and the lack of timely and transparent payment enforceability. Each time, we are urged to redress the ways NMW sustains fragmentation and vulnerability as work practices.

In *Uber BV & Others v Askan & Others (Uber BV)* [2021] UKSC5, the Supreme Court decision to grant worker protection to drivers should support the imperative need to end status fragmentation (as argued in the Status of Workers Bill) and welcome a unifying definition of workers, only to be distinguished from genuine self-employment.

Where the status of workers cannot be contended as in *Royal Mencap Society v Tomlinson-Blake (Mencap)* [2021] UKSC8, a second threshold is employed: subtracting work time from minimum wage entitlement. Care workers who performed sleep-in shifts were excluded from minimum wage for those hours as, the court found, they were not 'available' for work apart from when 'actively' responding to emergencies. In a reasoning contrasting *Uber BV*, the Supreme Court in *Mencap* creates an 'interim status between work and rest' that further fractures work time and increases workers' vulnerability.

> "This contribution is an important attempt to recover the reality of workers' lives from the vagaries of the law.'

Finally, *Harris & others v Kaamil Education Ltd & others* (Case No 1302183/2016) shows how NMW legislation is hard to enforce. Although entitled to minimum wage and the employer being found in tort, workers had to wait years to be paid what they are owed. Moreover, the unclear and complicated way calculations are made and stored by the employers makes it difficult to establish sums exactly. Putting aside employers' negligence and the utter contempt towards workers, there is a pressing problem of time. Care workers can work 20-30 appointments a day and 'simply there is no time to keep track of each fragment of work time'.

By presenting these seemingly disparate cases together, Ewing vindicates a clear and coherent image of the challenges which minimum wage workers face, and which are too often obscured by the fragmented nature and hyper-flexibility inherent in hourly paid industries, namely the gig economy and the care sector. As a result, workers are constructed as private contractors, their work time subjected to casualisation and the key roles they perform for the health and sustainment of society at large are misrepresented and informalised. Exposing the fruitful tension between theory and practice, this contribution is an important attempt to recover the reality of workers' lives from the vagaries of the law, infusing rights with meaning and justice so that they can be, in accordance with the *Uber BV* judgement, 'manifestly enacted to protect those whom Parliament considers to be in need of protection and not just those who are designated by their employer as qualifying for it'.

Critical reflection on the law often binds us to look for solutions beyond its legal constructions. Ewing's report incites to a more-than-legal, practical, and all-encompassing reform to the NMW edifice which rests on vaguely exploitative and easily exploitable foundations. Although an increase in the minimum wage hourly rate and the promise of more predictable contracts are auspicious, they are not enough.

Ewing addresses reforms from within with candid conviction, presenting them as open questions whose tentative answers require re-centring the dignity and importance of workers' time. For example, we are encouraged to think about the instability of using hours as the unit of measure for reckonable time, when the reality of our lives responds to more expansive time frames and long-term requirements (our rents are due monthly!). A suggestion is advanced, to look at other jurisdictions like Spain which have a monthly minimum wage model. The problem of enforcement is particularly pressing, from the role of HM Revenue and Customs in demanding better record keeping and employers needing to comply with pay calculations that are easily verifiable, to the creation of a single enforcement body.

> 'Those who are not members of a union are left to fight their cases as individuals.'

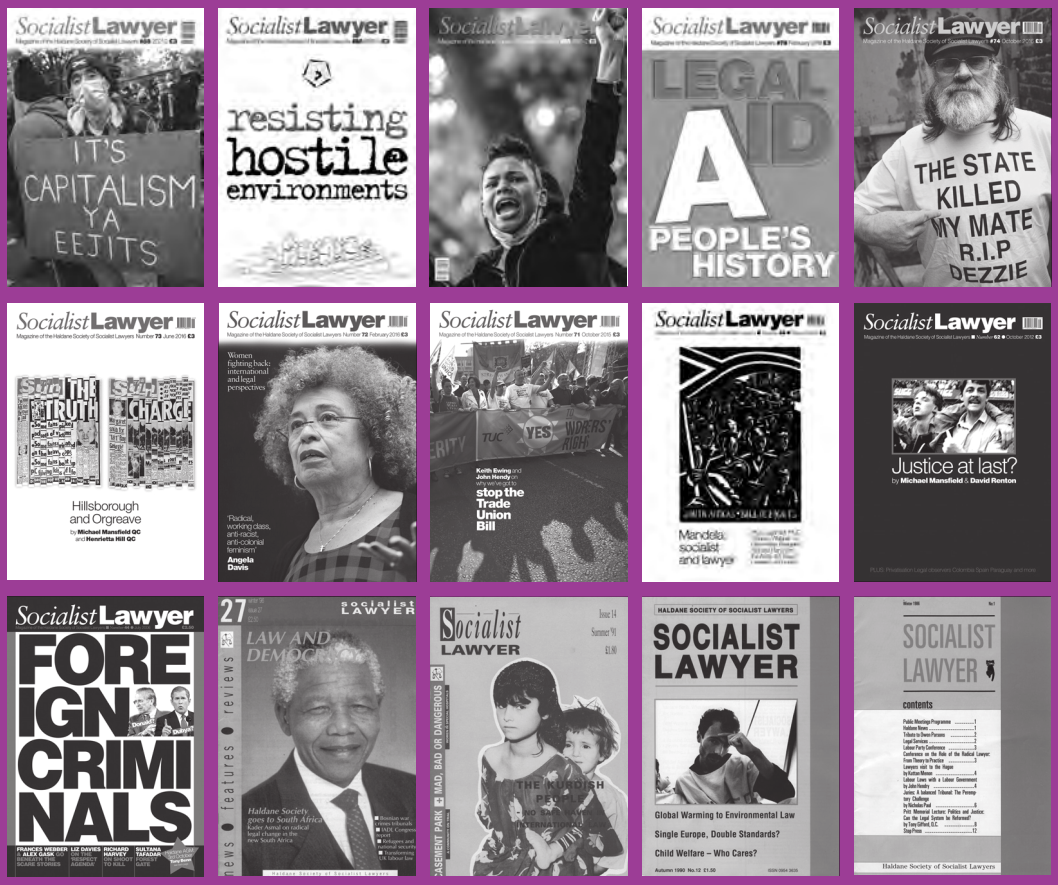
Meaningful long-term solutions must put collective bargaining at the forefront to amplify workers' voices and sustain bottom-up decision-making. Fostering unionisation at sectoral level is also fundamental. Ewing firmly specifies that this is not the goal but the benchmark for reform.

All three cases were union-backed, which exposes the alarming fact that those who are not members of a union are left to fight their cases as individuals. As a union, workers can have access to time and resources to challenge exploitation, build cases and reconstruct complex payment schemes or just even the time to sustain years-long disputes and appeals. It is necessary to look at time outside its productive iterations. Lack of payment for uncounted hours leads to precarity, unstable lives and food poverty. This was made visible by the furlough scheme whose 80 per cent of earnings calculation unequally impacted workers without fixed and regular working hours.

This publication is principally a reflection on the experience of time in working class lives, how time is drained, misconstrued and unfairly retributed. Ultimately, people's time is unequally distributed and selectively expendable: all three cases took several years for a redress and even when successful, they used up years of workers' time.

Let's take the time to read this contribution as 'the time is now'.

Michela Trentin



Join online now

haldane.org/join

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

The only way to ensure you get your copy of *Socialist* Lawyer delivered three times a year