

# 8 Reconstructing the state

Week by week, sometimes day by day, the British and American governments have built the foundations of an authoritarian state. The terror attacks on the US on September 11 2001 only led to an intensification of the attack on democratic rights that was already well under way. Since then, the “war on terror” has served as a flimsy pretext for greater and greater assaults on rights and freedoms at home and abroad.

The arrest on 27 May 2004 of Muslim cleric Abu Hamza, a British citizen, signalled the implementation of a treaty signed with the United States in March 2003, which was agreed without consultation or warning. This treaty allows the removal of suspects from Britain to the US without the American authorities first having to make out a case for extradition in British courts. Abu Hamza faced extradition merely on the basis of the indictment drawn by the US Attorney-General. When he signed the treaty, Home Secretary David Blunkett did not even bother to ask for reciprocity when it comes to US citizens who might be wanted in Britain.

In area after area – from whittling away the rights of defendants in criminal cases to the detention without trial or charge of alleged terror suspects – New Labour has undermined the limited liberties that have come to be associated with capitalist democracy. The story of how this happened is recounted by Helena Kennedy QC, a New Labour peer who, after a brief flirtation with the Blair government, suddenly

realised that it was trampling all over the principles she held dear. In *Just Law*, she takes New Labour to task for a “wholesale assault on the underpinnings of the rule of law”.

By the rule of law she means, in the area of crime for example, having clearly defined laws, access to lawyers, circumscribed police powers, an open trial process, rules of evidence, the right of appeal and the presumption of innocence. “It stands for the fundamental principle that every state actor must conform to certain basic requirements of acceptable behaviour set down not by the actor itself but by some independent body,” she maintains. But under New Labour, which enacted more than 700 new criminal laws in eight years, the state has assumed greater and greater powers at the expense of defendants.

There are severe limitations on the right to silence, repeated efforts to reduce trial by jury, an acceptance of the retrial of those already acquitted and allowing the disclosure of any previous convictions during a trial. There are mandatory sentences set down by ministers and the imprisonment of more people as a result of government directives. This is done, says the government, to “rebalance” the criminal justice in favour of the victims. As Kennedy remarks:

The rhetoric of “rebalancing the system” as between victims and the accused disingenuously presents the criminal trial as a contest between these two parties, thus denying the central role of the state.

We are beginning to see a semi-privatisation of the criminal justice process, with the victim, the private individual, being used to disguise the reality of the powerplay.

The presumption of guilt runs through the Terrorism Act 2000, enshrining as it does a reversal of the burden of proof, with accused persons having to show beyond reasonable doubt that they did not have items for terrorist purposes. Suspected terrorists can be stripped of their citizenship, a move that Abu Hamza was challenging through the courts before he was arrested on the extradition warrant. Further laws passed in the wake of the September 11 2001 terror attacks allow the state to detain indefinitely, without charge or trial, non-citizens deemed

terrorists by the Home Secretary. Before introducing the law, the New Labour government had to opt out of part of the Human Rights Act on the spurious grounds that there was a continuing state of public emergency in Britain. In June 2004, there were 14 people detained indefinitely in Belmarsh Prison, south-east London. It is unlawful to disclose even their names.

New Labour's anti-terror laws also deny the right to proper representation by lawyers. A detainee can appeal to a tribunal against the Home Secretary's decision that he or she is a threat to security. But detainees and their legal representatives are excluded from any part of the hearing which deals with the alleged intelligence on which the detention order has been made.

From time to time, Kennedy refers to the globalisation process dominated by transnational corporations and the changes that have resulted in the way people live. She notes: "Law is seen as an encumbrance to liberal free marketeers, save in the ways it protects commercial transactions, provides remedies for default and makes the world safe for global capitalism. The minimalist state wants minimalist law."

What Kennedy shows is that the rule of law developed under capitalism is itself coming to grief at the hands of the New Labour regime. In this view she is not alone. On 3 March 2004, the Lord Chief Justice, Lord Woolf, in an unprecedented speech, attacked the government for encroaching on judicial independence. His anger was particularly directed at a clause in a new Asylum Bill which sought to prevent the courts from hearing appeals against decisions from immigration tribunals. He warned that he was

not over-dramatising the position if I indicate that, if this clause were to become law, it would be so inconsistent with the spirit of mutual respect between the different arms of government that it could be the catalyst for a campaign for a written constitution. Immigration and asylum involve basic human rights. What areas of government decision making would be next to be removed from the scrutiny of the courts? What is the use of courts, if you cannot access them?

Asylum seekers have become an easy, identifiable target and the pretext for yet more ruthless laws that undermine long-standing international rights. New Labour found time for three major pieces of legislation between 1999 and 2004 which curtailed the rights of asylum seekers. The 2004 Act was nearly twice as long as the Bill when it was originally published. The new Act makes it a criminal offence to turn up in Britain without documents and curtails the right of applicants to appeal to the courts. Another clause compels those who lose their claims, but cannot return home, to do community work for no pay in return for benefits. Earlier legislation introduced the dispersal of new asylum seekers to often squalid accommodation throughout the UK. They were denied the right to work while awaiting a decision. The lucky ones could claim £37.77 a week – 30% below Income Support levels. The latest plan is to deny failed applicants the right to medical treatment pending their removal from the country. Doctors will be told to ask for a person's status before making a diagnosis.

In May 2004, the Court of Appeal ruled that the denying of any support or shelter to asylum seekers who applied late was a breach of their human rights. The Refugee Council has long campaigned against this provision. In April 2004, it published *Hungry and homeless* which revealed that many asylum seekers were sleeping rough. The Mayor of London's office estimated that 10,000 refugees were destitute.

At European and international level it is a similar story. The new European arrest warrant does away with almost all of the checks and balances of the existing extradition procedure. For a list of 32 offences there will now be no legal test in the requested state. The requesting state simply has to say that a person is wanted for one of the listed offences and this person can be arrested – their homes searched and property seized – and deported to stand trial. There is no habeas corpus, no appeal, no rights for the suspect, says Statewatch, the organisation that monitors civil liberties in the EU. At the same time as governments are overriding the conventions of the rule of law, they are strengthening the administrative power of the state at national and EU level. Surveillance of people and the interception

of electronic communications are now established as routine.

In the United States, a sweeping attack on democratic liberties followed the September 11 attacks. Soon after the attacks, Attorney General John Ashcroft sent to Congress a proposal containing the Justice Department's wish list of new police powers. The far-reaching law was passed almost without dissent, with only a cursory debate. Ashcroft was handed virtually all the powers he sought and several he had not even asked for. Almost immediately hundreds of Middle Eastern and South Asian men were rounded up and detained without trial or charge. According to the American Civil Liberties Union report *Insatiable appetite*, the law's most far-reaching provisions:

- ▶ permit the Attorney General to incarcerate or detain non-citizens based on mere suspicion, and to deny re-admission to the United States of non-citizens (including legal, long-term permanent residents) for engaging in speech protected by the First Amendment
- ▶ minimise the power of the courts to prevent law enforcement authorities from illegally abusing telephone and Internet surveillance in both anti-terrorism investigations *and* ordinary criminal investigations of American citizens
- ▶ expand the authority of the government in both terrorism and non-terror investigations to conduct so-called "sneak and peek" or "black bag" secret searches, which do not require notification of the subject of the search
- ▶ grant the FBI – and, under new information sharing provisions, many other law enforcement and intelligence agencies – broad access to highly personal medical, financial, mental health and student records
- ▶ permit law enforcement agents to investigate American citizens for criminal matters without establishing probable cause based on an assertion that the investigation is for "intelligence purposes"
- ▶ put the CIA firmly back in the business of spying on Americans by giving the Director of Central Intelligence broad authority to target intelligence surveillance in the United States

- ▶ contain a broad definition of “domestic terrorism”, which is so vague that the government could designate lawful groups such as Greenpeace as terrorists.

The Patriot Act conferred on the President powers to deem people “enemy combatants” without any rights whatsoever. This term was developed to avoid the provisions of the Geneva Convention about prisoners of war. On this spurious basis, detainees are held in cages in Guantanamo Bay, Cuba, and routinely abused by their guards. Taken from Afghanistan and other countries, the detainees face military tribunals without even the right of legal representation. Meanwhile, the US commission that investigated the September 11 attacks concluded that the intelligence agencies were not paying attention to the threat from al-Qaeda. Naturally, their answer was to recommend the creation of a National Counterterrorism Centre to co-ordinate all the state bodies and deepen the assault on civil liberties.

It was the verdict of the vast majority of experts that the invasion of Iraq by the US and Britain was illegal under international law. There were no grounds made out for a pre-emptive strike against a sovereign state. In Britain, Elizabeth Wilmshurst resigned as the Foreign Office’s deputy legal adviser because she believed the invasion violated international law. She told BBC Radio on 13 June 2004: “There was a tremendous and passionate debate about the legality of this. Most international lawyers I met were of the view that the conflict was unlawful under international law. The issue is whether the Security Council authorised the use of force in Iraq. There is no question that there was no basis for the use of force in self-defence. I took the view that participation by the UK in the conflict in Iraq was contrary to international law.” Lord Goldsmith, the Attorney-General, has refused to publish the advice he gave to the government.

These attacks by governments on the rule of law have other dimensions, as Sophie van Bijsterveld explains in *The Empty Throne – Democracy and the rule of law in transition*. She relates the continuous undermining of law with the “the profound

inability of the state to fulfil its classic functions”. What she cites in particular is the growth within globalised capitalism of self-regulating, quasi-state bodies which “stand on the divide between law creation and law enforcement, combining regulation and supervision”. This has resulted in an area of law outside of the existing structures. She says:

The closed, monocentred, and self-contained decision-making procedures governed by mechanisms of national constitutional law are broken open and the fiction that they can all be traced back to sovereign enactment and one source of power... is no longer adequate.

The requirement of a legal basis for the exercise of public power has lost substantive meaning as a result of delegation, she believes, asking:

What significance does the principle have when public decision-making takes place in complex processes in which parliamentary involvement is minimal, or when areas to which the principle of legality is applicable are taken up at the international level? What does it mean when those areas are transferred to the market, where no prior ‘legality’ principles applies at all?

These questions get to the heart of the matter. The legality of the capitalist state is the issue that is posed. Its increasing lawlessness adds to the case for revolutionary change.

### **Alternatives that ignore the state**

The question is, then, what is the way forward? A range of people, from academics with a profound knowledge of globalisation and international financiers to anti-corporate activists, agree that the state is in crisis. They propose a series of reforms that at international level are intended to improve the “governance” of the political system and return some legitimacy and authority to the state.

George Soros, the international financier who famously drove the pound out of the European Monetary System by speculating

**Arrested for sketching**

Ron Dare (Letters, 25 June) says the majority in this country wants a Home Secretary who "will take whatever legal measures are required to protect them"; but the evidence which would legitimate the detention of those imprisoned in Belmarsh (and therefore the proof that acts of terror have been averted) has not been made public. Mr Dare may suppose that there is no smoke without fire and that if so far no bombings have occurred in the UK since 9/11, it is thanks to Mr Blunkett's detentions.

On Easter Monday I was in central London sketching locations of South Bank entertainment sites on the Waterloo South Bank footbridge in preparation for a meeting with a client to whom I hope to sell a signage system. The two police officers who approached and asked what I was doing did not believe me in spite of the product brochures and client contact lists I said I had in my bag. They did not ask to see them but called another half dozen constables, then helped themselves to a bag search. On finding philosophy texts in my bag (a subject I happen to write on) whose authors were Iranian-Islamic (12th and 16th century!) they then marched me to Waterloo police HQ.

Following an hour-long conflagration over the contents of my bag (which included a foreign language newspaper of all things) the officers emerged to announce my arrest under the terms of the Prevention of Terrorism Act "on reasonable suspicion that I was engaged in activities constituting a risk to public security". Small circles in my sketch indicating bollards along a footpath were taken to be intended bomb placements.

I spent four hours (having already been detained for three and a half) in a cell in Kennington police station wondering whether I might not be joining those in Belmarsh where Mr Blunkett could detain me without explanation and, in the interest of public security, refuse to divulge the alleged evidence. If the majority in this country need protecting, they had better ask who the enemies of democracy currently are.

David Khurt, *The Independent* 6 June 2004

against it under the Tories, is also a student of globalisation. He has warned against the dangers of rampant, free-market capitalism. In his latest book he writes: "Markets are designed to facilitate the free exchange of goods and services among willing participants, but they are not capable, on their own, of taking care of collective needs such as law and order or the maintenance of the market mechanism itself. Nor are they competent to ensure social justice. These 'public goods' can only be provided by a political process." He adds: "I consider the present arrangements in which capital is free to move around but social concerns receive short shrift as a distorted form of a global open society." Soros calls for measures to contain the instability of financial markets and correct the bias in international trade that favours developed countries. He wants "powerful international institutions devoted to... poverty reduction and the provision of public goods on a global scale".

The noted anti-capitalist globalisation campaigner George Monbiot's concern, expressed in his new book, *The Age of Consent*, is to re-establish the democratic process, but globally rather than nationally. He favours a parliament of 600 representing the world's population of six billion elected on the basis of one person one vote. The parliament would have moral authority but command no police or armed forces. His intention is that "through the deployment of a modified species of capitalism to create the conditions in which capitalism can be destroyed". He suggests reforming the UN, replacing the 15-member Security Council with a weighted voting system of all states, "until nation states cease to exist".

Monbiot is critical of the World Social Forum series which he describes as "the dictatorship of those who turn up", proposing instead that the self-establishing World Parliament would be representative of the whole population, and therefore carry legitimacy and moral authority. It would provide a system which can hold the global and international powers to account and stimulate an accelerated fusion of human interests which will propel us towards a change in the way human beings think. The parliament would constitute a revolutionary assembly, which, with no connection to existing national governments would be

truly global rather than international.

The major merit of his book is that it is looking beyond capitalism. Unlike most he sees that, like everything else, capitalism too has its limits. "The dictatorship of vested interests is succumbing to entropy. We can hasten its collapse, but only if we are to turn our intermittent campaigns into a sustained revolt." He acknowledges that capitalist-led globalisation "has created the means of its own destruction", showing how

simultaneously, it has placed within our hands the weapons we require to overthrow the people who have engineered it and assert our common interest. By crushing the grand ideologies which divided the world, it has evacuated the political space in which a new, global politics can grow. By forcing governments to operate in the interests of capital, it has manufactured the disenchantment upon which all new politics must feed. Through the issue of endless debt, it has handed to the poor, if they but knew it, effective control of the world's financial systems. By expanding its own empire through new communication and transport networks, it has granted the world's people the means by which they can gather and coordinate their attack. The global dictatorship of vested interests has created the means of its own destruction. But it has done more than that; it has begun to force a transformation of the scale on which we think, obliging us to recognise the planetary issues which bear on our parochial concerns. It impels us, moreover, to act upon that recognition. It has granted us the power to change the course of history.

Having left the camp of "the dictatorship of those who turn up", and rejected anarchist "anti-power", Monbiot is opting for "a global democratic revolution". But, and this is a clear weakness, he has little or nothing to say about the need to confront and defeat the brutal application of force wielded by the defenders of capital. Will Bush and Blair, or their successors, simply melt away in the face of a world government, even a revolutionary assembly, with "moral authority" but no forces of its own? How does his proposal for a one adult-one vote system of election to a world parliament involve the growing number of people who

are active in the struggle? Monbiot nods his head in their direction and, in passing acknowledges the need for conscious revolutionary action, declaring that “it requires the active engagement of a network of insurrectionists who are prepared to risk their lives to change the world”. But he fails to follow this up, replacing the confrontation for power with a kind of parliamentary leapfrog. The merit of Monbiot’s contribution is that he thinks beyond the status quo; the weakness of his analysis is that it ignores, avoids or sidesteps a series of fundamental issues. These centre on the nature of the capitalist state and the driving forces that compel globalised capitalism to act the way it does. Without an understanding of these related phenomena, the proposals for world government by the people for the people have absolutely no possibility of becoming a reality.

All these perspectives assume that the present state system, at national and international level, is neutral and will yield to pressure for reforms that, if implemented, would undermine the basis of its own power. What we have attempted to show is that, on the contrary, the existing state at national level and global institutions like the WTO, are inextricably bound up in countless ways with the destiny of capitalism as an economic system of production and exchange.

### **The real alternative**

The capitalist state is bringing down the curtain on a period of history that began in the 18<sup>th</sup> century. Transformed by the march of global capitalism, the state is unable and unwilling to uphold or sustain the democratic forms that have allowed it to rule over the majority for this long period. The state has lost its legitimacy and authority by:

- ▶ merging its identity with corporate interests to rule more directly on their behalf
- ▶ facilitating the commercialisation of civil society by market forces
- ▶ undermining the independence of the legal system
- ▶ trampling all over the rule of law at home and internationally
- ▶ taking away long-established democratic rights

- ▶ using state violence and war in a bid to enhance its role
- ▶ devolving more and more power to unelected, unaccountable bodies
- ▶ allowing the media to fall into the hands of a few corporations
- ▶ targeting the poor, migrants and the youth for special treatment
- ▶ declining to meet social need and abolishing the welfare state
- ▶ undermining the significance of the right to vote
- ▶ rendering parliamentary systems more redundant than ever before.

Our proposals are aimed at creating the conditions where the state as a special body alienated from society begins to disappear, where it becomes unnecessary. The first step along this road is achieving state power, with the purpose of abolishing what is oppressive, secretive and unnecessary, and reordering the remainder so that it serves the interests of the majority.

A *transitional state*, basing itself on an economy producing for need, which can swiftly satisfy needs, both in Britain and internationally, will institute a truly democratic society for the first time. The principles for a transitional state should include:

- ▶ self-organisation throughout society where possible
- ▶ involving as many people as possible in government and administration
- ▶ an end to special privileges and incomes for state officials
- ▶ total accountability and subordination of all officials to elected bodies
- ▶ elections for all public offices
- ▶ complete transparency and openness at all levels
- ▶ a new legal system based on community control and self-policing.

The major impediment to a democratic society remains the unbridled power of the corporations and their relentless drive to expand and accumulate. Just as capitalist economic relations are a barrier to human progress, so too is the state that gives political

expression to the profit system. No more democracy can be squeezed out of capitalism. Regime change is the goal. The moment is opportune because the state has lost legitimacy and authority which it can never recover. It is divided against itself, as the internal disputes over the invasion of Iraq and other issues have shown. By openly endorsing and promoting free-market capitalism, the state leaves capitalism politically naked. In so doing, it exposes capitalism to a direct assault on its rule in ways that the state has set out to prevent and divert.

Without parliamentary democracy, capitalism could not have developed; without it capitalism cannot sustain itself. This is the opportunity we must seize to take history in a new direction. We have to extend the right to vote and give it a new significance. This requires us to create new forms of democratic representation. The great advances won in the 19<sup>th</sup> and 20<sup>th</sup> centuries must be *reclaimed* and taken further through a revolutionary development.

### **The political system**

The parliamentary system in Britain masks and mystifies the reality of where real state power lies and how it is exercised. As a consequence, the system is democratic in name only. Executive power, the power to make and carry through decisions, lies outside of Parliament. Decisions made are then brought to Parliament for ratification, in the same way as a rubber-stamp is used to signify “approved”. Window-dressing is something done extremely well in Britain and the “show” that Parliament puts on is certainly impressive. There are debates and votes, committees for legislation and investigation, elections and resignations. Why, the Prime Minister even has to answer questions once a week in the House of Commons. But MPs do not even have the power to choose or approve a Prime Minister after an election. Before Parliament is called together, the Queen, of all people, sends for the leader of the majority party who automatically becomes Prime Minister. He or she then chooses a Cabinet without reference to Parliament, or even the party that won the election. Such is “representative” democracy in Britain. The “sovereignty of parliament”, a concept loved by constitutional historians, is of

course weaker still in the context of the European Union. Laws drawn up by the equally undemocratic EU take precedence over British parliamentary law.

From time to time, the veil is drawn in such a way as to expose Parliament in front of everyone. Such was the case over Iraq. The decision to invade Iraq was, for example, made by George W. Bush and Tony Blair more than a year before it actually took place. Parliament was not informed. This followed the decision by the US administration, late in 2001, to plan for war. A book by Bob Woodward, the journalist who uncovered the Watergate scandal, highlights the importance of Blair's support for Bush as the "driving force in all of it". Not even the British Cabinet was party to the secret agreement to invade a sovereign state. More than a year later, Parliament was asked to endorse a *fait accompli*, with British and American troops already in place to launch an invasion. The advice of the Attorney-General on the legality of a war was never made available to Parliament – or anyone else for that matter. A majority of public opinion was opposed to the invasion and, on 15 February 2003, Britain saw the largest anti-war demonstration in its history. There was barely a majority for war in the House of Commons, with half of Labour MPs not actually in the government voting against. The dossiers about "weapons of mass destruction" were a work of fiction. Yet the invasion was launched, rendering public opinion meaningless.

In effect, whatever power Parliament possessed in the 18<sup>th</sup> century it long ago gave up to the government of the day. In turn, government, as we showed in Part 1, is increasingly centralised around the powers assumed by the Prime Minister, a few close advisers and the heads of the military and intelligence services. The overwhelming majority of those involved in decisions are unelected, unknown and unaccountable, either to Parliament or the electorate in general. The "corridors of power" are closed to all but the most privileged of political, business and financial circles. Occasionally, we are allowed a glimpse of the real matrix of executive power. The Hutton Inquiry in the summer of 2003, into the death of government scientist Dr David Kelly, inadvertently lifted the lid on the murky world of real political

power. It revealed how secretive, virtually conspiratorial, select groups set Kelly up and essentially drove the civil servant to suicide. Finally, the primary purpose of the state and government today is to create the most favourable conditions demanded by transnational capitalism. That is ultimately where accountability lies – this is the real power behind the throne.

The parliamentary system is, therefore, a façade that increasingly undermines and devalues the right to vote that was won in bitter struggle against the ruling classes. A single vote every four or five years in a general election cannot alter the fact that this form of democracy is limited and curtailed in so many ways that reform is impossible.

### **Our proposals**

Alongside democratic ownership and control of economic and financial resources (see Chapter 7), we should build on the formal democratic rights we have achieved and give them real meaning and content through a new political framework. This would replace the House of Commons, the totally unelected House of Lords, the system of monarchy left over from feudal times, the secretive Privy Council and the presidential-type powers of the Prime Minister. A new democratic Britain could involve:

- ▶ a national system of government built from the bottom up in contrast to today's hierarchical regime imposed from the centre
- ▶ national, regional and local Assemblies with executive as well as deliberative power
- ▶ local and regional Assemblies to decide on how best to meet a range of needs in their own areas and to send delegates to a national Assembly
- ▶ a national Assembly with executive and legislative powers over major issues such as health, housing and education budgets and overall economic objectives
- ▶ committees, making use of expert advice, to draw up plans to reflect the national Assembly's decisions. The chairs of the committees could form the government

- ▶ delegates to local, regional and national Assemblies to reflect diversity in our communities
- ▶ distinct voices, for example, for women, minority ethnic citizens, older people, young people, workplaces, students and small businesses
- ▶ all matters to be discussed, debated and decided upon with full public access to proceedings, putting an end to secretive methods of existing politics
- ▶ delegates to be paid no more than the average national income with no special privileges
- ▶ all delegates subject to recall and removal by local/regional voters at any time
- ▶ information and communication technology available free to every household to encourage and stimulate mass involvement in the new democratic process
- ▶ full information on proposed decisions to be made available and extensive consultation with voters *before* decisions are taken at any level
- ▶ freedom of political representation and the right to organise politically.

### **State administration**

The state bureaucratic administrative machine is composed of departments, executive agencies and quangos. Its form has emerged, evolved and changed over 150 years in response to the developing needs of British and later global capitalism. The essential characteristics of state administration remain the same, however:

- ▶ the state bureaucracy is inherently conservative and remote
- ▶ there is the minimum of accountability
- ▶ secrecy is the norm
- ▶ expertise is used to reinforce the status quo or vested interests
- ▶ preservation of special privileges is demanded.

Even a cursory look at departments like the Home Office shows that they function to maintain social control. Most of the time and resources are spent on matters like reinforcing the crude

punitive penal system, curtailing our civil liberties, increasing surveillance, punishing and demonising asylum seekers and increasing the powers of the police and control of the courts. Some 67,700 people are involved in carrying out the functions of the Home Office – 58,000 attached to the prisons and asylum systems.

The Ministry of Defence spends billions on armaments to use against other countries, or to sell to poor nations where rulers deploy British-made weapons to keep their own populations down. Some ministries have names that totally belie their purpose. For example, the Department of Work and Pensions ensures that the welfare system is used as a stick to beat people with, and that older people are left to survive on a meagre state pension. The Department for Environment, Food and Rural Affairs looks after the interests of major agribusinesses and is allowing life in the countryside to become increasingly difficult for those who live and work there. What about the Department for Trade and Industry? Its “mission statement” says: “The DTI drives our ambition of ‘prosperity for all’ by working to create the best environment for business success in the UK. We help people and companies become more productive by promoting enterprise, innovation and creativity.”

A host of so-called agencies exist outside of the central state, making them even more remote. The Food Standards Agency, for example, is supposed to be in charge of food safety. Yet it has become a body that mostly concentrates on telling you how much nutrition there is in different foods rather than examining the dangerous way most food is processed on behalf of a handful of supermarkets. The FSA also promotes genetically-modified food as “safe” – it calls them “novel foods” – and is partisan against organic food producers. So much for its independence. Another FSA – the Financial Services Authority – is supposed to regulate the finance industry on behalf of consumers. In fact, its main task is to make sure that financial businesses stay within the law and do not go bankrupt. When it comes to things like the mis-selling of mortgage endowment policies, the FSA is on the side of the industry.

Then there are “quasi-autonomous non-governmental

organisations” – quangos to you and me – and other types of public bodies. These carry out a series of functions on behalf of government and range from the BBC and national museums to the Housing Corporation, which funds and regulates housing associations. There are also numerous scientific and advisory bodies. Their collective budgets run into many billions of pounds. There were almost 850 of these types of organisations in 2003, run by boards and committees appointed by ministers. There were 22,000 appointments, many of them well-paid positions. For example, the chair of the Housing Corporation was paid more than £40,000 for a part-time post. There is a whole industry out there of people collecting paid positions on quango boards. Nice work if you can get it.

There is a human cost to this too for many of the staff employed in the state bureaucracy. Consumed by a nightmare of paperwork, reports, target chasing, endless meetings and inertia, those who joined thinking they would do “something to help society” are soon disabused. The whole process leads to a waste of people’s talents which could be better deployed elsewhere on behalf of society as a whole, rather than on preserving the narrow interests of the status quo.

### **Our proposals**

A revolutionary government could not make use of the machinery of state as it is presently set up and run. We should aim to transform these state bodies from an apparatus that is superimposed on society to a body that is subordinate to civil society. As there would be no narrow class interests to represent, many of the existing functions could be abolished straight away. There would be no need, for example, for an immigration and nationality division of the Home Office that currently employs 13,500 people with the task of driving asylum seekers and refugees away from Britain. What is the point of the Financial Services Authority in an economy that has abolished speculation? Many other organisations that regulate aspects of capitalist economy, like Ofcom for phone companies, would also be abolished as unnecessary. A DTI that brings together privately-owned corporations, university research and

commercial “opportunities” could not serve a society based on collective ownership and co-operation.

In their place would come new bodies that are totally under the sway and control of national, regional and local Assemblies. For example, a new department concerned with trade and industry would not have the primary task of stimulating the market economy through deregulation and competition. Instead, it would encourage self-management in the workplace, help create an audit of productive resources, stimulate ideas about new technology with the purpose of reducing workloads and cutting working hours and turn scientific research institutes away from commercial priorities in favour of solving pressing problems facing society. Furthermore, all departments would devolve not just staff but also their functions, to regions and cities to help ensure that bureaucratic inertia does not dominate.

As far as state administration is concerned, the principles for the future could be:

- ▶ the subordination of bureaucracy to society through accountability to Assemblies
- ▶ the replacement of existing structures with those better suited to new purposes
- ▶ new state bodies as facilitators and supporters of the new society
- ▶ the elimination of state administration wherever possible
- ▶ an end to special privileges and making a career out of bureaucracy
- ▶ payment of staff to reflect general levels of incomes in society
- ▶ complete public transparency in the work of the bureaucracy
- ▶ making other public bodies accountable to those who use services and to Assemblies.

### **The legal system**

The legal system in Britain, although it is an inseparable part of the state machine, fulfils a number of often contradictory roles. It can, for example, often come into conflict with other parts of the state and government. We have seen a number of examples of this, both under the Tories and New Labour, where the

judiciary has argued for the protection of democratic rights and the rule of law. There is, in fact, a deep crisis within the capitalist state over these issues. The state is proving increasingly incapable of and unwilling to protect or even advocate legal rights. We need to take forward what human society has achieved in terms of law while rejecting the existing class-biased framework in favour of a revolutionary, new approach.

At one level, the legal system – with its judges, courts, lawyers and prisons – is clearly an expression of the dominant power relations and ideology in society. It is based on hierarchy, authority and the ability to deprive those who do not “obey the law” of their liberty. These are all expressions of the power of the state. The judiciary sits as representatives of the “Crown” – which in 21<sup>st</sup> century Britain means the state and not the monarchy. Judges are appointed by the government in the person of the soon-to-be abolished Lord Chancellor. Much – but not all – law in Britain is handed down by the state in the form of legislation. Lawyers are accredited by bodies that owe their powers to the state. Prisons lock people up on behalf of the “Crown”, which is why they are known as Her Majesty’s Prisons. From this standpoint, the legal system has no essential independence from the capitalist state.

But while the legal system, which has Anglo-Saxon origins, derives its powers from the state, it does not simply represent capitalist interests in a crude and direct way. Of course, the legal system constantly reinforces the status quo in a variety of actions and activities. It upholds private ownership of property and contract law as the cornerstone of capitalist society. The emphasis in the legal system is on an individual and their rights, which denies a person’s existence as a social being. Challenges to the basis of laws on the grounds that you might object to the protection of privilege are not allowed or accepted in courts.

As society is based on class division and conflict, there is a need to moderate and mediate between warring groups and the legal system provides just such an outlet. Because the ruling classes do not rule in a direct fashion, the legal system has developed a relative autonomy. The legal system in Britain thus reflects within it both the dominant nature of capitalist rule and the struggle for

rights against arbitrary state power that stretches back many centuries.

The modern legal system emerged during the transition to capitalism in Britain. Historians such as E.P. Thompson date the transition from the Black Act of 1723. This law was introduced unopposed and rushed through in days to legislate the death penalty to deal with “wicked and evil-disposed men going armed in disguise”. These were men who were involved in running battles with royal forest officials over the protection of their land who, allegedly, blacked their faces in order to avoid recognition. A range of offences were set out for which the death penalty was the consequence. Thompson explains in his brilliant study on the origins of the Black Act that:

The Act registered the long decline in the effectiveness of old methods of class control and discipline and their replacement by one standard recourse of authority: the example of terror. In place of the whipping-post and the stocks, manorial and corporate controls and the physical harring of vagabonds, economists advocated the discipline of low wages and starvation, and lawyers the sanction of death. Both indicated an increasing impersonality in the mediation of class relations, and a change, not so much in the “facts” of crime as in the *category* – “crime” – itself, as it was defined by the propertied. What was now to be punished was not an offence between men ... but an offence against property. Since property was a thing it became possible to define offences as crimes against things, rather than injuries to men. This enabled the law to assume, with its robes, the postures of impartiality: it was neutral as between every degree of man, and defended only the inviolability of the ownership of things.

The Black Act lasted almost a century and became the arena for a series of battles between the propertied and the propertyless. In many cases, people were executed; in others, juries refused to convict and set defendants free. These struggles coincided with the expropriation of common land through enclosure, actions that were legalised by Acts of Parliament.

“Justice” is said to be blind and all enter the system with the

same rights. At a superficial level, this seems to be true. High ranking members of society like Lord Archer can get sent to prison as well as the homeless. But decisions like these cannot obscure the real nature of relations within the legal system. Judges, for example, are drawn from a narrow, elite social class. Whatever their claims to impartiality and their attempts to free themselves from prejudice and bias, they inevitably come to court with the preconceptions and general approach to issues that is common to their class in society. Until quite recently, for example, they refused as a point of principle to believe that the police would lie under oath or fabricate evidence. In the remote world of judges, none of this seemed possible, whereas in the society inhabited by the rest of us, it all seemed quite probable and somewhat inevitable.

Access to the best legal representation usually requires substantial independent resources. While the wealthy can afford to hire a battery of top lawyers to defend them in court, the rest have to make do with lawyers assigned by the state. These can easily be the least experienced, or those who do not make the case a priority. As a result, defendants in criminal cases may be put under pressure to plead guilty in order to speed up the case and allow the lawyer to move on to more lucrative work. In civil cases, extreme restrictions on access to legal aid exclude a wide range of people from taking action.

And people do not all appear as equals except in the most abstract sense. They come before courts as individuals of a social class. They have differing backgrounds, opportunities and wealth. While people have a right to own property, this makes little difference when it comes to major issues. The capitalist has, in law, not only a right to own workplaces, but also the right to retain profits made out of the labour of others. This is equality capitalist style, the freedom to be unfree. That is why most people in the criminal system have “offended” against property (see below) and are from the working class.

The law, as it has evolved under capitalism, has resulted in a system with its own interests and development, alongside – as well as in direct relationship and conflict with – the state and its representative institutions. One of the outcomes is a

contradictory set of rights, which the capitalist state itself is finding increasingly restrictive, as we shall see. Thompson says in *The Black Act*:

If the law is evidently partial and unjust, then it will mask nothing, legitimise nothing, contribute nothing to any class's hegemony. The essential precondition for the effectiveness of law, in its function as ideology, is that it shall display an independence from gross manipulation and shall seem to be just. It cannot seem to be so without upholding its own logic and criteria of equity; indeed, on occasion, by actually *being* just. And furthermore it is not often the case that a ruling ideology can be dismissed as a mere hypocrisy; even rulers find a need to legitimise their power, to moralise their functions, to feel themselves to be useful and just.

### **Our proposals**

It would be easy just to denounce every aspect of the current legal system as simply an extension of capitalist rule, which should be dumped in its entirety. That, however, would be a simplistic conclusion, paying no regard to the nature of revolutionary change. A new society cannot but begin with much of the baggage of the old. It is not possible – and in fact is extremely dangerous – to start from a blank sheet. That would rule out drawing on any aspect of human achievement in history in a positive way. No one would suggest reinventing the wheel; neither should we seek to do so with law.

Law is a contradictory phenomenon under capitalism, used both as a method of enforcing the status quo, and as a way of offering some form of protection along the lines of individual rights. It is capitalism that restricts justice, lending the legal system a class bias and reinforcing unequal access, while political agendas dictate issues like crime and inter-personal behaviour. Says Thompson:

I am insisting only upon the obvious point, which some modern Marxists have overlooked, that there is a difference between arbitrary power and the rule of law. We ought to expose the shams and inequities which have been concealed beneath this law. But the

rule of law itself, the imposing of effective inhibitions upon power and the defence of the citizen from power's all-intrusive claims, seems to me to be an unqualified human good. To deny or belittle this good is, in this dangerous century when the resources and the pretensions of power continue to enlarge, a desperate error of intellectual abstraction.

Historical experience shows that if law is taken simply as a means of class rule, then it is open to abuse against individual citizens. That was the case under Stalinism in the Soviet Union. Once a privileged bureaucracy had seized control of the state, it set about creating a system of rule that had legal sanction but was in fact totalitarian. Law was used to destroy the opponents of Stalinism, including the leadership of the 1917 Revolution and those who developed independent social and political views.

We must start from the fact that capitalism is increasingly finding law and the legal system an impediment to its rule. What capitalism will not defend, we should take forward in a new way. Law must guard against corruption of the new regime by bureaucrats, political opportunists and other interests.

The struggle for democratic and legal rights in Britain in any case goes back much further than capitalism. In 1215, the barons forced King John to sign the Magna Carta or face a civil war. Arbitrary rule and punitive taxes imposed to finance the Crusades led the barons to draw up a charter of rights. Article 39 stated: "No freeman shall be seized, or imprisoned, or dispossessed, or outlawed, or in any way destroyed; nor will we condemn him, nor will we commit him to prison, excepting by the legal judgement of his peers, or by the laws of the land." In the English Civil War between parliament and Charles I, the Levellers demanded the right to vote for all men, irrespective of their wealth, and were brutally suppressed.

The American Revolution of 1776 and the French Revolution of 1789, led to statements of individual rights that were heavily influenced by the struggles against tyranny in Britain, led by Tom Paine and others. The struggle for the right to belong to a trade union and to vote for representation in Parliament lasted for much of the 19<sup>th</sup> century, resulting in death, exile, imprisonment

and hardship for countless men and women. After the Russian Revolution of 1917, new types of rights emerged – social rights concerned with, among other things, employment, housing and education. After World War II, colonial countries fought for, and won, the right to self-determination. This history and its achievements are not to be given up lightly. They should form the basis of a new framework for law that goes beyond the limitations set by capitalist social relations.

### **Preserve and enhance the rule of law**

The rule of law is now undermined by the degeneration of the capitalist state. In future, the rule of law must embrace published laws that apply universally, laws that are never retrospective, freedom from arbitrary arrest and defined limits to the powers of the state. Christina Sypnowich argues in *The Concept of Socialist Law* that

the practical effect of these principles is to set limits to the discretion of judges, legislators and the police. The rule of law ensures that political interference in legal affairs, and the arbitrary power which is often the result, is impermissible. Detention without charge, conviction without sufficient evidence, unduly harsh punishment: all would constitute violations of the standards of consistency and coherence integral to a system of law.

Today, the judiciary is a distinct part of the capitalist state, as we have demonstrated, even if it has a relative autonomy in its day-to-day workings. Its much-vaunted independence and impartiality is subject to many restrictions and influences under capitalism, which taken together undermine the principle in practice. Moreover, its ultimate role is to uphold the status quo based on capitalist property and social relations. Today, the state is more and more overriding any independence the judiciary has, while building up police and administrative powers.

### **Our proposals**

If law is to serve society as a whole, all links between the legal system and the state must be severed. Judges must be allowed to

judge on the basis of the law alone and not some overriding principles set down by the state. The selection of judges at all levels must be a transparent process free from interference by the state and involve judges, lawyers and ordinary people, who would get special training to help them in their task. Judges must reflect regional, social and economic groups in society. Lay judges should sit alongside professionals, and legal officials must be answerable to the communities they serve.

A special commission would investigate and report back to Peoples Assemblies on what laws inherited from capitalism need scrapping or amending in the light of the framework of the new society. For example, the whole area of company law, with its emphasis on the rights of corporations covering all their activities, would not apply to a society based on common ownership. Present oppressive laws and regulations on asylum and refugees would be another example of redundant law. Employment and trade union law would have to be revised in the light of the new circumstances, reinstating the unqualified right to strike taken away by Tory/New Labour laws. The anti-terror laws would be scrapped.

ID cards will be abolished and there will be explicit rights to:

- ▶ *habeas corpus*, requiring people arrested to be brought to court and charged or released
- ▶ free and equal legal representation
- ▶ freedom from state surveillance
- ▶ inspect freely all data held by the state and other bodies.

### **Extend democratic rights**

The rights capitalism allows are extremely narrow. For example, the European convention on human rights, now part of the Human Rights Act, restricts itself to restating principles that mostly relate to arrest and detention, the expression of opinions, freedom from torture and the right to assembly and to join a trade union. All are heavily qualified and allow the state to modify, or opt out of the convention, when it is deemed necessary. New Labour has done this, as we have seen, in order to imprison foreign citizens without trial or charge. While these

rights are important and must be preserved, they are based on the status quo of capitalist social relations. While there is a right, for example, to join a union, there is no stated right to strike. There is no mention of the right to vote whatsoever, or of the question of elections.

The right to express an opinion has a sub-clause which states: “The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.” These conditions give the state *carte blanche* when it is deemed necessary to crack down on rights.

### **Our proposals**

Today, individual rights to justice, like the ability to elect for trial by jury, are under constant attack by the state. We need to restate them in a fresh way. Individual rights to liberty and freedom from arbitrary arrest will be reaffirmed in unconditional and positive terms. Social rights established in law, within a framework of the abolition of the capitalist exploitation of labour, should include the legal rights to:

- ▶ decent housing at affordable cost for everyone
- ▶ free education for students at all ages
- ▶ employment for those who can work and average pay for those who cannot
- ▶ equal pay and job opportunities for women
- ▶ free child care for single parents
- ▶ equality for black and minority ethnic citizens
- ▶ asylum with equal status to those already resident
- ▶ free health care at all levels and types of treatment
- ▶ dignity in old age through pension provision at average income, and free care

- ▶ safe and nutritious food at affordable prices
- ▶ equal access to cultural and personal development opportunities.

### **Crime and punishment**

The most evident class bias in the legal system is in the area of crime. Laws setting out offences all derive from legislation drawn up by the state and imposed on the legal system to implement. The concepts of individual responsibility, guilt and punishment that lie at the heart of criminal law express both the hostility of the state and the atomisation of the individual in capitalist society. Offences are dealt with out of social context. The reasons for committing an offence are not allowed to become part of a defence. Only the “facts” in relation to a specific charge are taken into account.

The criminal law system is not so much about delivering “justice” or even “fighting crime” as a way of reinforcing existing forms of social control and authority. Although it is constructed in a language of formal equality, criminal law and punishment is selective and unequal. The whole notion of what constitutes serious crime and a “danger to society” is narrowly drawn, so as to exclude much of what many consider harmful behaviour. For example, prosecuting a company for manslaughter is next to impossible, as the relatives of the victims of rail crashes have found out to their cost. The intense exploitation of workers in Britain and abroad, which shortens lives and makes people ill, is considered “good” although it adversely affects people more than existing crime. While terrorist bombings are dealt with as crimes, the dropping of bombs on civilians by state-employed pilots is legally sanctioned. Pollution is destroying the planet’s ecosystems and making people ill, yet those responsible are not considered criminals. These are the crimes of the powerful and the rich, but they are free to commit them while others are prosecuted and persecuted.

The rapid changes of the last 25 years have shattered many of the forms of social relations that developed after 1945 in the period of economic boom and the welfare state. Market forces have produced far less stable households, urban degeneration,

the growth of extreme wealth alongside deprivation, the marginalisation of sections of young people, burgeoning individualism, and a manufactured craving for consumer goods. The decline of informal social control through relatively stable communities has coincided with the dramatic fall in the price of drugs to produce whole inner-city as well as rural areas of decline and despair. Young men, in particular, have seen their traditional status and social role challenged and this has deepened their alienation. Increasing numbers of young women have struggled against the odds as lone parents. This is the background to contemporary crime, much of which is committed by the poor against the poor. More than two in three of all prisoners are unemployed when they go to jail.

Under New Labour, the courts have been instructed to deal harshly with offenders while the rehabilitation aspects of the system are downgraded. The Probation Service, which for most of the post-World War II period played a role in helping offenders, has lost any notional independence and is being merged into a National Offender Management Service (NOMS).

Any ideas of justice in the system are replaced by managerialism, cost-cutting and the “targeting” of a specific group. In an article in the September 2001 magazine of the Legal Action Group, Professor Ed Cape, director of the University of the West of England, Centre of Criminal Justice and Professor Lee Bridges, Chair of the School of Law, University of Warwick, noted:

The fact that the policy of ‘targeting’ has the effect of concentrating criminal law enforcement on the socially excluded and ethnic minority sections of the population serves a wider political purpose. It is not the rights of the ‘ordinary’ citizen that are being threatened in this process, but those of an identifiable, even ‘alien’, minority. In other words, it is not just law-abiding citizens who are portrayed as having separate interests from ‘criminals’, but the minority of ‘persistent offenders’ can be further divided off from other offenders for special treatment without raising the spectre of a general erosion of citizens’ rights.

Statistics compiled by the Prison Reform Trust (PRT) highlight the increasing use of imprisonment – amongst the crudest forms of punishment, and deteriorating conditions for those imprisoned. When New Labour came to government in May 1997, the prison population was 60,000. In March 2004, the prison population in England and Wales stood at 75,000, its highest ever recorded figure and an increase of almost 2,500 over the past year. For the second consecutive year, England and Wales had the highest imprisonment rate in the European Union, at 141 per 100,000 of the population. The number of prisoners in England and Wales has increased by more than 25,000 in the last ten years. Previously it took four decades (1954-94) for the prison population to rise by 25,000. Overcrowding has led to appalling conditions and a sharp rises in suicides. In August 2004, 14 prisoners took their own lives, the highest total ever recorded for a single month in British jails.

The number of women in prison has increased particularly dramatically. Ten years ago in 1994 the average female prison population was 1,811. In March 2004, there were 4,549 women in prison, an increase of 151% in the last ten years. The offences for which women were most often sent to prison in 2002 were theft and handling stolen goods. Just over 2,500 women were received into custody for these offences, of which the most common crime is shoplifting. They accounted for 40% of all female receptions into prison in 2002. There were more than 11,000 under 21 year olds in prison; of these, 2,565 were under 18.

Most of the rise in the prison population over the last decade can be explained by the significant increases in the proportion of offenders sent to prison and the length of sentences, particularly the increased number of long-term prisoners, says the PRT. At the end of September 2003, there were 28,250 prisoners serving sentences of four years and over. This compares with 14,750 in 1994, an increase of 92%. In terms of custody rates, ten years ago one defendant in 26 would have gone into custody. Now it is one in 13. First time domestic burglars are almost twice as likely to receive a custodial sentence today as they were eight years ago and at the same time the average sentence length for

burglars has increased from 16 months to 18 months.

The punishment system is inherently racist. At the end of February 2003, one in four of the prison population was from a minority ethnic group. This compares to one in eleven of the general population. The imprisonment rate for black people is 1,140 per 100,000, ten times higher than the imprisonment rate for South Asians or whites, which are 166 per 100,000 and 170 per 100,000 respectively. If white people were imprisoned at the rate of black people, England and Wales would have half a million people in prison. Black people are five times more likely than white people to be stopped and searched. Once arrested,

The overcrowding crisis in our jails means that some offenders no longer attend appeals because they fear that by the time they return to prison, their cells, will be allocated to another inmate.

Lord Woolf, Lord Chief Justice, speaking at the annual Perrie Lecture Awards, 6 June 2003

black people are more likely to be remanded in custody than other offenders charged with similar offences. Black and Asian defendants were less likely to be found not guilty than white defendants.

### **Our proposals**

What is self-evident is that the prison and criminal justice systems produce criminals rather than addressing or tackling the issue of criminality. It is yet another example of the inability of capitalism to deal with the problems it creates. It would rather spend an average of £36,000 a year keeping someone locked up than face up to the root causes. Thus, the issue reduces itself to one of “crime management”, New Labour style, which embraces the law-and-order, authoritarian agenda set by the Tories in the 1980s. The way the approach to crime is framed by traditional political parties serves to disguise the real relations and concerns in society. As criminologist John Muncie put it in a paper to British Criminology Conference 1999

The power to render certain harmful acts visible and define them as “crime”, whilst maintaining the invisibility of others (or defining them as beyond criminal sanction) lies at the heart of the problem of working with notions of “the problem of crime”. Notions of “crime” offer a peculiarly blinkered vision of the range of misfortunes, dangers, harms, risks and injuries that are a routine part of everyday life. If the criminological intent is to reveal such misfortunes, risks and harms then the concept of ‘crime’ has to be rejected as its sole justification and object of inquiry. The first stage in decriminalising criminology (or to decentre crime) is to recognise that any number of damaging events are far more serious than those that make up the ‘crime problem’. Moreover, many of these incidents (such as petty theft, shoplifting, recreational drug use, vandalism, brawls, anti-social behaviour) would not seem to score particularly high on a scale of serious harm. Despite this it is often these “minor” events that take up much of the time and preoccupation of law enforcement agencies and the criminal justice system. Conversely, the risk of suffering many of these crimes defined by the state as ‘serious’, would seem negligible compared to such everyday risks as workplace injury and avoidable disease.

This shows the urgent need to reframe the whole concept of crime and how to deal with it. With the abolition of the alienated social relations of capitalism, communities will have greater opportunities to explore what defines crime from a totally different standpoint. Instead of naming and shaming, retribution, vengeance and punishment, we should emphasise reparation and community self-control and influence. There are grounds for replacing the body of existing criminal law, with its thousands of offences, with law based on making offenders face up to their responsibilities and their impact on communities.

The existing prison system belongs to the Middle Ages. Prison does little to prevent reoffending. It is designed to brutalise and shame and should be scrapped. Where it is unavoidable to detain offenders, a new approach would make rehabilitation its sole priority. Formal court structures that presently deal with crime could be replaced with neighbourhood/community courts that would start from compensation and reconciliation rather than

retaliation. There would be more use of arbitration, adjudication and conciliation in place. In this way communities would come to accept that it has a responsibility for the personal and social development of all of its citizens.

### **The police and state forces**

The police force in Britain is incapable of serving communities because of the way it is run and controlled. At one level, the police force is the servant of the state and charged with preserving “law and order”. At times, this means the police are sent out to prop up governments by attacking demonstrations and strikes. In most recent history, the police were used by the Thatcher government to attack miners and printworkers in the mass struggles in defence of jobs that took place during 1984-86. They also violently suppressed the anti-poll tax demonstrations in London in April 1990.

More recently, the police have used anti-terror laws against protesters outside an arms fair in London, in September 2003, when 144 people were arrested. These laws allow the police to abandon the need to show cause when stopping and searching someone. In addition, the police Special Branch works closely with MI5, the British secret police, to spy on and infiltrate those considered to be a “threat to national security”. This goes far beyond the alleged terror networks, to militant trade unions, left-wing political organisations and protest groups opposed to government policy.

At another level, the police are clearly incapable of dealing with crime. The clear-up figure has fallen to only 23% across all forces despite increases in personnel. In London, and Somerset and Avon, the figure for 2003 was only 15% per cent. The bureaucratic, secret world of the police means they are often closer to the criminal fraternity than ordinary people. In fact, often their behaviour mimics aspects of the most backward social behaviour in the shape of racism, corruption, indifference and lying when it comes to obtaining convictions. As a result, many vulnerable and innocent people end up serving long sentences for crimes they did not commit.

Society should not have to rely on a professional police force

divorced from day-to-day accountability and control to deal with real life problems and issues. Spending more money on police numbers, equipment and computers, and giving them more powers makes no difference. The problems are beyond their capacity to deal with. Instead, the community should learn to police itself, relying on professional help where necessary. That would require the abolition of the police force as presently constituted and its reorganisation to support community self-policing.

Responsibility for preserving and enhancing collective and personal property and security would fall on the shoulders of the entire community, who would now be in overall social and political charge. A range of mechanisms – from the formal to the informal – would be introduced. Even in Britain today, there are communities that have had to act themselves to drive out drug dealers, for example. Taken together with the new approach to dealing with crime, the reorganisation of the justice system and the scrapping of the existing prison system, these proposals offer a chance for society as a whole to develop a collective cohesion that is patently absent today.

The secret intelligence agencies, MI5 and MI6, together with the police Special Branch would also be abolished. The army, together with the navy and air force, which is used to fight wars on behalf of the capitalist state, would be reorganised as a defensive force. All their weapons of mass destruction will be scrapped. Altogether, the new, transitional state would advance society towards the day when the administration of people is transformed into the administration of things by the people.

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## **Education and the future: a transatlantic dialogue**

*Glenn Rikowski is a Senior Lecturer in Education Studies in the School of Education at University College Northampton. Rich Gibson is a co-founder of the Rouge Forum, and an associate professor of education at San Diego State University, California. This dialogue was conducted by email between 19 July and 8 August 2004.*

**GLENN:** First of all Rich, I think that it's best to acknowledge that there are problems regarding the two of us talking about education in socialism. One is that there is no agreement regarding the nature of socialism, and so trying to outline an education for socialism is a non-starter. Secondly, it could be argued that a couple of teachers like us outlining "the education of the future" runs against the notion that any programme for education in socialism (or in a transitional epoch) must be the result of *collective* and *democratic* discussions, educational practice and political action. Are we not just a couple of teachers, educational activists and thinkers spinning ideas about education in socialism? Why should anyone take notice of what we say? A third point is that education in socialism, like socialism itself, is simply unimaginable. We are both locked into capitalist society, and our capacity to visualise anything beyond it, such as socialist society and an education for socialism is impossible. However, I would like to think there is a way through at least some of this. A friend of mine, Richard Shepherd, argued that after the fall of the Berlin Wall and the transformation of the Soviet Union and Eastern Bloc from state socialist or state capitalist (take your pick) societies into a capitalist ones, folks would want detail about what socialism would be like. They would want to know more about what they were committing themselves too. What are your thoughts on these issues, Rich?

**RICH:** Geeze, Glenn! Those are four big questions. First, on socialism: I think it failed and we need to build a critical

understanding of what went wrong. What will be can only come from what has been, with some imaginative leaps, so the huge struggle for socialism, which cost the lives of millions of honest people and which despite its failure still stands as a high-watermark of humanism, is key to understanding where we want to go.

*GLENN:* But Rich, this implies that we need to say what we think socialism was, or is – and where actually existing forms of socialism, or attempts at creating socialism, took a wrong turn.

*RICH:* Yes Glenn, and for me socialism was 1) the continuation of the state, in the form of the dictatorship of the proletariat, as a site of class struggle 2) with the party in the lead, purportedly acting in the interest of the working classes and the peasantry 3) as a result of a revolution (meaning I do not think there is a way to vote away capitalism), for the purpose of winning a more humane, free, egalitarian, and democratic world. Because brevity must be a concern, let me compact history a great deal and say I believe the key efforts for revolution were the Paris Commune, the Russian revolution, the Chinese revolution, and the Cuban revolution. Each of these battles built on the other.

The Paris Commune, brief as it was, set up the principles of socialism in practical ways (smashing the existing state, no elected officials paid more than average workers, immediate recall of elected officials, a working – as opposed to a bureaucratic – government, quasi-soviets in power, the necessity of an armed people, etc.). The Russian revolution demonstrated that a socialist revolution could rise up in the midst of an imperialist war, face massive attacks, and sustain itself – if briefly. The Chinese revolution again demonstrated the relationship of imperialist war and revolution, and deepened 1) the idea of a mass party, 2) the role of a peoples' army, fairly egalitarian and democratic, and peoples' (guerrilla) war, 3) questions about dialectical materialism and making the philosophy of praxis a mass issue, and 4) the role of class struggle, and consciousness, post-revolution. The Cuban revolution showed that a revolution was possible even at the

fingertips of the empire, and the potential role of socialist education for a new kind of humanity. Each revolution elevated human history. Yet each, I think, collapsed. Each failed to address successfully the production and appropriation of surplus value, to overcome capitalist economic relations.

*GLENN:* And what about my second point Rich, on why people should take any notice of us?

*RICH:* Well Glenn, to paraphrase the other Marx, Groucho, I am not sure I would want to pay much attention to anyone who paid too much attention to me. That said, however, let us look at concrete circumstances. This is a world whose major powers are promising their youth perpetual war. Inequality is booming, as are many forms of irrationalism (racism, nationalism, religious fundamentalism, sexism, etc). An international war of the rich on the poor is producing new forms of fascism on every continent. At the same time, the world is more united than ever before, through systems of production, exchange, transportation, technology, and communications. Everything is there for all to live fairly well, if we chose to share. This contradiction is not acceptable. Indeed, there is no alternative but to discover a path to get rid of capitalism, to create a humane world where people can truly lead reasonably free, creative, connected lives in sharing communities.

*GLENN:* How does education come into this project, Rich?

*RICH:* Education is key, not only in creating the base of understanding, through critical analysis of existing social relations, to offer a ground for a leap of imagination beyond daily life, but also because education, schooling, is now structurally pivotal to some of the most powerful imperial players, like the US.

*GLENN:* What are the relations between schools and imperialism in your view, Rich?

*RICH:* Well Glenn, in de-industrialised North America, I believe schools, not industrial work places nor the military nor the tax system, are the focal organising places of most peoples' lives. Of course, schools offer skill training (literacy, etc), and ideological training (nation building). Schools are huge markets. They involve billions of dollars of exchange (textbooks, salaries, architects, buses, buildings, etc), and they warehouse kids, a vital tax free corporate benefit in a society whose economy created one-parent families, or requires two people working to win the salary of what one person earned 25 years ago. Most importantly, schools are centres of hope which is probably the main reason people send their kids to us strangers.

*GLENN:* But from what I've read of your work, teachers can make a difference, right?

*RICH:* Absolutely! What I've outlined above is not *all* that goes on in schools, or need go on. Good teachers swim against the current every day, teaching from the understanding that students are capable of comprehending and changing the world. Teachers do not have to be missionaries for capitalism and some, though far too few, are not. These are, after all, *capitalist* schools and they are not semi-autonomous sites, though they are contested sites of class struggle, every day. Even so, it is capitalism that is semi-autonomous. Its schools are not.

So, education is key to things as they are, and to changing things to what they *might be*. Education is integral to sustaining any changes that might be won by poor and working people. Education has also been key to revolutionary projects in progress, as in South Africa, or perhaps more modestly, in the Mississippi Freedom Schools in the early 1960s, the Black Panther Party schools connected to their free breakfast programs, etc.

*GLENN:* So Rich, coming round to the really tough one: what might an education system look like in a future society?

*RICH:* Well Glenn, I suppose that depends on how that society

has developed, what it is and wants to be. If it is a society that has just experienced a successful uprising, education will look much different from a society that has achieved real community – as the earlier society will certainly be under extreme internal and external military, economic, political, and social pressure. Yet Glenn, I think either education system must address the question Marx raises in his third Thesis on Feuerbach:

The materialist doctrine concerning the changing of circumstances and upbringing forgets that circumstances are changed by human beings and that it is essential to educate the educator himself. This doctrine must, therefore, divide society into two parts, one of which is superior to society.

The coincidence of the changing of circumstances and of human activity or self-changing can be conceived and rationally understood only as revolutionary practice.

I believe this addresses the issues of *transformation* and *self-transformation* that educators face every day quite well.

Both Georg Lukacs and Paulo Freire wrote highly significant last books. Lukacs' *Talism and the Dialectic*, drives home three key ideas that Freire's last work, *Pedagogy of Freedom*, takes up as well. In each instance, two things are clear from the two writers. First, overcoming the contradiction of subject and object – the self-actualising person making their own history, in circumstances they did not make – requires the conscious action of the critically curious subject. Second, justice demands organisation. Only through a revolutionary political organisation can such conscious actions become truly a *movement*. Third, within this, “revolutionary passion”, is vital, key. However Glenn, I do not share Lukacs', or Freire's, sense of what the organisation should look like – or at least not Lukacs' tacit support of Stalin's Russia, and Freire's leadership in the Workers Party of Brazil, about to recreate all the old problems of socialism. Still, I think their common idea is correct. The *negation of the negation*, the idea that things change and what is new is always in re-creation, and that the profound optimism built within it requires organisation.

*GLENN:* Perhaps you could elaborate on why teachers' power is so crucial, Rich.

*RICH:* Well, it's not just power in relation to organising for big events, public events (demos, protests, etc.), though it is also that. But the more power we have, by organising the chess club, by being a coach, by taking on unwanted tasks, the more freedom we have to teach what reason is, critical thinking, that is, dialectical materialism: how to think of things as they change, the view that we can understand and change the world. So, we teach the scientific method of knowledge, in social studies and physics.

*GLENN:* And there's an ethical dimension here too, a question of *values*, I believe.

*RICH:* This is crucial: we teach love, both as a fact of sensual pleasure, and a question of species survival, evolution, and we discuss how sensual love is distinct from exploitative sex, how we can tell lovers from Bill and Monica. With our power and freedom, we restore the study of work, labour, production, labour history, Marx – and revolution – to the curriculum, showing how over time people have made gains, wittingly and not so wittingly, and how we have been betrayed as well. Anything but class, as James Loewen says, is the rule of teaching in US schools, and we need to get the power to break the rule – which the work of the Rouge Forum demonstrates is possible.

*GLENN:* What about the social context in which schools, teachers and students operate?

*RICH:* Clearly, we must address the immediate issues in schools: curricula regimentation, high stakes tests, militarism, demands for cutbacks and de-funding via marketisation. We should show the historically factual ties of these issues to the needs of an imperialist society. What is our immediate goal in this? I think our goal should be, simultaneously, the ability to control our workplaces, schools, in conjunction with kids and parents – and

revolution. The struggle for control of the processes and products of work is incessant and necessary on any job, and it should be our understanding on ours. Control of the work place is proved by our ability to shut it down. Between today and shutting it down, we should lead boycotts of the tests, protests, drive the recruiters off the campuses – urge people into more and more direct, self-actualising, collective action against the boss – and against capitalism. This is not a call for action that is manufactured out of the air. These actions have already happened. Our job is to make sense of them, to encourage and organise more of them – to lead.

*GLENN*: Becoming *educators* in this much wider and deeper sense that you have outlined?

*RICH*: Yes, I think we should shut down the schools, as many as we can, as often as we can. Does that mean I want to destroy public, or more exactly not so “public”, education as no nation has a truly public system? No. It means I want to overturn the social relations that make unpublic education rotten, and I want to build a lasting social movement that can create a better world. If we should do that, we will have a responsibility to begin, and maintain, freedom schools in the midst of very serious struggle.

*GLENN*: Rich, I would venture to say something about the *kind* of schooling we have and might have for a socialist future. If schooling is an aspect of the “real movement of society”, then what does this entail? I would argue that there are at least three moments within this movement. First, in relation to capitalist schooling, the key point is *critique*. This would be the critique of capitalist society, its forms of schooling and training, its markets, and so on. This first moment attempts to push to the fore the *negativity* of all that passes for the “positive” in capitalist society, especially in education and training. For example, mainstream education researchers and theorists here in the UK are all too quick to grasp the latest “good idea” emanating from Policyland: the learning society, social capital, personalised learning and so on. Though under New Labour there have been so many of these

that a reluctant scepticism has developed. But this misses the point. These policies sound appealing in a way. Who could be against lifelong learning, for example? But in capitalist society these “good ideas” can only ever be perverted and inverted moments (the opposite) of what they purport to represent. Thus, as I have explained in the case of lifelong learning, in capitalist society this is transformed into a kind of “learning unto death” in the form of labour-power production. So, the moment of critique is essential – and we need to encourage our students to be critical of all aspects of society.

But if critique was all we had to offer, that would be insufficient. And for the second moment Rich, I would like to draw on something that you mentioned earlier, and which Peter McLaren has talked about in relation to Paulo Freire: *love* – which I think, in its broadest sense, must be linked to *human needs*. An education for the future must be about meeting human needs: not just of the students, but also of the communities in which they live, and beyond. Of course, we must be on our guard that these needs are expressed and considered in truly democratic sites and that students’ and teachers’ efforts to meet them are not hijacked by capital or the state. But this may be less of a danger if the state has been smashed already and capital is a battered social force, on the wane! Yet I would not want people to get the impression that the education of the future is just about critique and educating to meet, and in fact meeting, human needs. It must not be entirely negative nor self-sacrificial, but should also point to the *realm of freedom* – the freedom that Marx was talking about in his brief sketch of the communist impulse in the *Economic and Philosophical Notebooks of 1844*. The education of the future has also to speak to desires, wants and dreams.

*RICH*: Critique (through negation), love, and the realm of freedom; that is not only a fine ground for any classroom, but for revolution. In our current epoch, resistance and the revolutionary struggle are key to freedom, and to understanding. So, as you say, these moments work in relationship to each other, to the whole of capitalism, and they can operate in similar ways in the everyday classroom as well.