Institutional culpability

A Very British Killing: The Death of Baha Mousa
At Williams, Jonathan Cape, 2012

This is a story of two British institutions failing Iraqi civilians. The culpability of the first institution is well-known: British troops detained and tortured nine Iraqi civilians in Basra in 2003, one of them – Baha Mousa – was so badly assaulted he died as a result. Only one person – Corporal Payne – has been convicted of any crime. However these assaults were not supposed to get to the truth. The only convicted perpetrator was Corporal Payne who had pleaded guilty to inhuman treatment while contesting a charge of manslaughter. He must have regretted that decision as he watched his comrades walk free.

Fifteen to 20 soldiers were last two days. The Iraqis were not the choir: the detainees lined up and struck in succession. The screaming must have been audible throughout the barracks.

The second institution is the legal profession. Obviously it is not for lawyers to track down the truth: a lawyer's job is to defend his or her client fearlessly, subject only to certain ethical restraints. It is the court process, assisted by adversarial advocates, that is supposed to get to the truth. The court-martial of only seven soldiers accused of assaulting Mousa with such force so as to cause his death lamentably failed to get to the truth.

Andrew Williams provides a devastating account of how the adversarial system can let down truthful witnesses. The Iraqi witnesses – the surviving detainees – had not been prepared for the experience of giving evidence; they were doing so through interpreters, a process which inevitably makes their testimony more distant. As the witnesses became confused, and rambling, it was hard for the prosecution to elicit their previous statements from them. When they expressed emotion, it felt false and jarring to a British courtroom. Skilled criminal defence lawyers were able to make far too much of apparent inconsistencies. The second group of witnesses were soldiers who had been only too happy to help the prosecution when it looked like they might be in the dock. Once they were off the hook and their comrades were charged, they suffered a collective loss of memory. The prosecution was reduced to treating some of them as hostile witnesses. All seven defendants were acquitted and the media ran sympathetic stories about the ordeal they had suffered.

Three people shine through as determined truth-seekers. Sir William Gage conducted the two-year inquiry into the death of Baha Mousa and was able to piece together an account of what happened in the barracks in Basra. Phil Shiner, Vice-President of the Haldane Society, took groundbreaking cases to the Supreme Court and Strasbourg in order to establish that a full inquiry was needed and that human rights could apply to the actions of British troops abroad. And Colonel Daoud Mousa, Baha's father, had been seeking the truth from the moment he was presented with a death certificate that contained an inaccurate cause of death for his son. He was let down by the court-martial and by most of the legal profession, and only finally found some justice from William Gage.

Liz Davies

A special practice

Thompsons – A personal history of the firm and its founder
Steve Allen
Merlin

As the 100th anniversary of the beginning of the First World War approaches, interest in those who resisted the military conscription of the time is starting to grow.

One such radical dissenter was WH (Harry) Thompson, who founded the well-known law firm of the same name in 1921. Harry Thompson’s actions as an ‘absolutist’ – a conscientious objector who declined to help with the war effort or cooperate with the authorities to that end in any way – saw him imprisoned several times between 1916 and 1919.

That is just one fascinating detail contained in Steve Allen’s book Thompsons – A personal history of the firm and its founder. Others include the account of legal assistance provided to the Poplar Borough Councillors who were jailed in 1921 for failing to set a rate, an act of resistance grounded in opposition to unfairness in a system of payment towards the cost of common services provided across London. As well as being at the helm of the foundation of the National Council for Civil Liberties in 1934, Harry Thompson also provided legal expertise to the unemployed workers and anti-fascist movements of that decade.

While parts of the book may only be of interest to those familiar with the firm’s internal life – the author himself worked there for over 30 years – the coverage of the firm’s assistance to the trade union and labour movement at key moments in the 20th century will however appeal to a much wider audience.

For example, in a powerful chapter entitled ‘Dying for work’, the author documents the firm’s involvement in seeking redress for those affected by workplace accidents and the campaign against the Workmen’s Compensation Act 1925. Associated chicanery on the part of employers and insurance companies had been a feature of a market within a context of de-industrialisation.

Further afield, in an early example of the firm’s involvement in supporting trade unionists across the world, legal assistance was provided to defendants in a case known as the Meerut Communist conspiracy trial which arose after an upsurge in strike action in India in 1928/29 and a clampdown by the law officers of the British Empire.

The book includes an index of key legal cases in the areas of personal injury, labour and employment law in which the firm has been closely involved. The referral to the same in the text reveals an organisation of many deeply committed individuals and one imbued with a clear political understanding and analysis of the challenges facing working people.

Thompsons today has over 1,000 staff and partners working in an increasingly competitive market within a context of de-industrialisation.

However, as the author is keen to point out, the firm has never acted for insurance companies and remains ‘a special practice, a firm united in its endeavour to act for the trade unions, for working people and the disadvantaged and oppressed’.

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