Charges dropped

Unite Against Fascism’s (UAF) joint secretary, Weyman Bennett, was arrested at UAF’s counter demonstration against the English Defence League in Bolton in March 2010. He and Rhetta Moran faced charges of conspir-acy to commit violent disorder and were briefly subject to bail condi-tions which prevented them atten-ding UAF meetings. These charges were dropped in November 2010. Another demonstrator, Alan Clough, had a charge of assault-ing a police officer dropped after video evidence emerged which did not support the allega-tion. The Independent Police Complaints Commission will be investigating this discrepancy as part of its investigation into the Bolton demonstrations.

Russell Fraser

Tough on torturers

An Argentine judge has petitioned the Spanish Government to request confirmation as to whether Spanish courts are investigating cases of torture, murder and disappearance of Franco’s political opponents during his dictatorship.

Human rights defenders from Spain have sought assistance from Argentina since recent attempts by lawyers in Spain to investigate the innumerable allegations of human rights abuses, which date from 1936 until the dictator’s death in 1975, have so far been unsuccessful. In 1977, two years after Franco’s death, an amnesty law was passed in Spain covering crimes committed while carrying out political repression before 1976 by ‘authorities, civil servants and agents of public order’. Judge Baltasar Garzón, the Spanish judge who famously requested the Chilean dictator Augusto Pinochet’s extradition whilst in the UK, is being tried for distorting Spanish law for his attempts to investigate the human rights abuses of the Franco dictatorship. The prosecution of Garzón led to large demonstrations in Spain and Argentina earlier in 2010 supporting the steps Garzón had tried to take.

Argentina has been a leader in Latin America in bringing successful prosecutions against the perpetrators of human rights abuses during its military dictatorships in the 1970s and 1980s. It has repealed its own amnesty laws and the country now tries suspected human rights abusers. On 22nd December 2010, the notorious military dictator Jorge Videla was sentenced to life in prison by an Argentine court for his role in the torture and murder of at least 31 political prisoners. A massive crowd of families and supporters of the victims cheered on the streets outside. The court had already sentenced a group of former military officers who had served in Videla’s Government to life in prison for crimes against humanity.

Marcela Navarrete

British complicity in horror

On 18th November last year, over 80 people squeezed into a classroom at BPP in central London to hear Gareth Peirce, one of the Vice-Presidents of the Haldane Society, speak on ‘torture’. Gareth’s calm, controlled delivery makes the horrors she is describing even more vivid.

She spoke of the Guantánamo litigation and of how disclosure of documents dragged out of the Government had shown the British Government’s complicity in torture.

She also spoke of the use by both the British and American Governments of information obtained from ‘out-sourced’ torture, sending their prisoners to brutal regimes for detention. The official use of torture in criminal
Double standards

In the context of social change the word ‘reform’ implies a level of improvement, of progression toward a fairer, more equal society. There is therefore a certain irony to the use of the word in the title of the Coalition’s Legal Aid Green Paper. One proposal in particular stands out; those who need legal aid to bring a negligence claim against a local authority must show that that authority acted ‘very far below’ the standard which the law requires. It is by no means the most far reaching proposal but the unashamed double standard it creates is striking. To illustrate, let’s say there are two next-door neighbours, both abused as children as a direct result of social services’ negligence. Twenty years on, one can afford a lawyer but the other cannot. While the first has only to show that the local authority acted without reasonable care to succeed in court, her poorer neighbour must show that she received a standard of care ‘very far below’ that, if she is to get the funds to even reach the court door. Such overt double standards can not be justified. Or can they?

I pointed this out to the Minister for Legal Aid at a meeting following the release of the Green Paper. The meeting was to allow groups with an interest in legal aid to express their initial views on the paper. Conscious of my own inexperience compared to others present I hesitantly offered the view that this particular proposal – among others – was anathema to the rule of law. The Minister’s cursory answer implied that I had not understood my own question. I left the meeting convinced that I was naive to have even contemplated voicing such an idea; feeling more ‘young’ than ‘legal aid lawyer’.

Inevitably, I found myself questioning the importance of what I was arguing for. As lawyers it is easy to take the primacy of our cause for granted and forget that legal aid is only one aspect of a welfare state from which savings must be found. It is easy to forget that jobs will be lost, that teenagers from poorer families will lose out on education and that more people will be made homeless. Against this backdrop, is it blinkered to stand up for legal aid?

The answer is no. Legal aid is fundamental to the rule of law. There can be no semblance of equality before the law when only the rich can defend their rights. The rule of law has been described as a ‘simple, yet profound, expression which explains almost everything you need to know about our country’. The words, ironically enough, are those of David Cameron on the sleeve of Lord Bingham’s book, The Rule of Law. A timely reminder that standing up for the rule of law is far more than youthful idealism.

The rule of law is only one aspect of the case for legal aid. There are innumerable positive examples, be they in the fields of employment, immigration or housing, that access to legal aid makes a vital difference to people’s lives. It allows the individuals who otherwise would not have access to justice to assert their rights when it comes for example to claims against unfair dismissal, appeals against visa refusals, or actions against landlords who fail to carry out their duties.

Resisting cuts to legal aid can be justified. However we need to get out there and do exactly that: to persuade the public who are to blame when the axe falls. It is for this reason that the Young Legal Aid Lawyers started their campaign to save legal aid. Visit our campaign website at www.savelegalaid.org to see how you can support us.

Connor Johnston (paralegal at the Howard League for Penal Reform and an executive committee member of Young Legal Aid Lawyers)