Human rights are the solution

Essays from leading experts explore themes ranging from mass atrocities around the world to unprecedented levels of homelessness in the UK. This thought-provoking collection is curated by **Labour Campaign for Human Rights** and **Amnesty International UK**.

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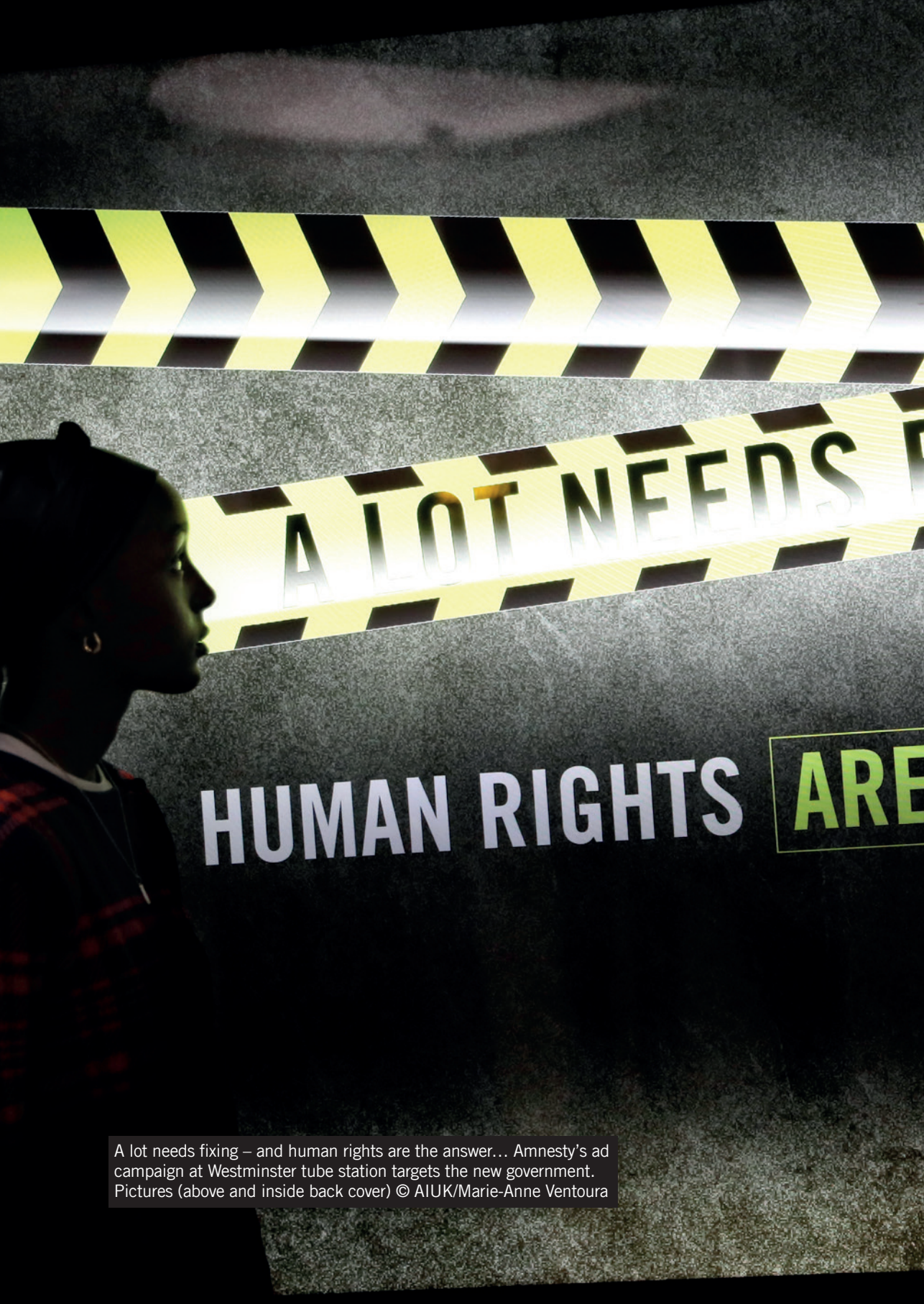

A lot needs fixing – and human rights are the answer… Amnesty's ad campaign at Westminster tube station targets the new government. Pictures (above and inside back cover) © AIUK/Marie-Anne Ventoura

Human rights are the solution

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The views expressed in the following essays are the views of the individual named authors, not those of Amnesty International or the Labour Campaign for Human Rights.

Foreword

The UK must be a world leader in human rights

By **Olivia Williams** and **James Jennion**, co-directors of Labour Campaign for Human Rights

The new Labour government has the unique opportunity and urgent responsibility to address the wave of severe human rights violations that we have witnessed in recent years. It is time to reclaim the UK's position as a global leader and vocal champion of human rights on the world stage.

In the UK, one in five people live in poverty,[1] while our welfare system and basic services are straining under years of chronic underfunding and mismanagement. When we stand up to speak the truth to power, draconian anti-protest laws – like the Police, Crime, Sentencing and Courts Act – threaten to stifle public outrage before it can even find its voice.

Around the world, we have witnessed truly shocking instances of mass violence, aggression, and crimes against humanity, with perpetrators facing few or no repercussions. Meanwhile, corporate power soars, with minimal oversight on how business practices impact people and the planet – especially the workers who put food on British tables and fill the shelves of British high streets.

While the UK has lost sight of its international obligations in recent years, those that have stood up for them have been attacked – denigrated as 'lefty lawyers,' or 'pesky activists' – as if they are part of the problem. Yet, it is through human rights-centred policymaking that we can find solutions to some of the most pressing issues we face.

This new Labour government presents the opportunity to depart from 'politics as usual' and embrace a new way of thinking. Human rights can play a restorative role in policy-making by helping the government to think with hope and solve for the future. They can offer proactive, practical, and positive solutions to some of the biggest challenges of our time.

This collection of essays brings together the voices of activists, lawyers, and practitioners to offer new perspectives on the ways in which human rights can inform policy approaches. With a government committed to championing human rights, the possibilities for positive change are boundless.

At the Labour Campaign for Human Rights, we have been campaigning to restore pride and purpose to Britain's human rights record for more than a decade.

We believe we need a comprehensive strategy to prevent mass atrocities – a Business Human Rights and Environment Act that would compel companies to prevent human rights and environmental abuse in their supply chains; and refocus domestic policies to promote the rights to housing, health, poverty alleviation and decent work. This will offer strong foundations to build a progressive society that delivers for generations to come.

The past fourteen years have seen damaging attacks on our rights at home, while ever more shocking violations are committed overseas without consequence. The UK cannot let human rights be an afterthought; it must lead by example.

> **The UK can be a place where respect for our human rights is core to both government and society, and a country that champions the rights of persecuted people everywhere.**

The UK can be a place where respect for our human rights is core to both government and society, and a country that champions the rights of persecuted people everywhere. The approaches set out in this collection can help us get there.

Human rights are for everyone, everywhere

By **Sacha Deshmukh**, chief executive, Amnesty International UK

All states have a duty – regardless of their political, economic, and cultural systems – to promote and protect all rights for everyone, without discrimination.

However, in recent years, universal human rights have faced unprecedented levels of threat and rollback. Here in the UK, we have seen a raft of legislation which has removed fundamental rights protections, often in contradiction to the UK's obligations under international law. Internationally, we see other governments increasingly acting with impunity, violating international human rights and humanitarian law with no consequence; and undermining the international rules-based system which protects us all.

Human rights protections were born out of the ashes, horror and devastation of World War II to act as a global roadmap to freedom, equality and dignity – protecting the rights of every individual, everywhere. Over the last 75 years they have underpinned many of the positive transformations that the world has seen; from decolonialisation across continents, to the reunification of the European continent after the Cold War, to challenging systems of structural racism in countries right across the world.

Centring human rights provides a clear framework for policy makers who want to change lives and improve public services for the better, in equitable, fair and just ways. The Human Rights Act in the UK, for example, has not only enabled people to claim their rights when things have gone wrong, but has ushered in systems of decision making in our national and

local policy making that better respect rights in the first place. In this way, any government designing and delivering its agenda should see human rights principles as key to providing solutions to policy challenges and direction for the best use of precious resources.

That's why Amnesty International UK is urging our new government to be proud of the role the UK has played over decades in building and respecting global human rights frameworks and laws, but also to recognise that over recent years the UK has squandered its reputation and leadership by inconsistently supporting and practising those principles at home and abroad. We now urge the government to truly prioritise promoting and protecting our rights, because while politics might not be for everyone, human rights are.

We now urge the government to truly prioritise promoting and protecting our rights, because while politics might not be for everyone, human rights are.

As part of this work, we are delighted to partner with the Labour Campaign for Human Rights to bring together a range of voices and expertise from across society – including rights holders, barristers, teachers, union representatives, NGOs and politicians. Each of these essays provides a unique and compelling perspective on what this government could do to truly champion human rights now and in the future.

Endnotes

1 https://www.jrf.org.uk/uk-poverty-2024-the-essential-guide-to-understanding-poverty-in-the-uk#

Mass atrocity prevention

Renowned lawyer and human rights activist **Baroness Helena Kennedy KC** calls for the UK government to use the 'loudest and clearest voice' on the global stage to prevent mass atrocity violence.

Instances of mass atrocity violence – war crimes, crimes against humanity, genocide and ethnic cleansing – are not just rising but are spiralling around the world.

As director of the International Bar Association's Human Rights Institute, I have spent time with, and campaigned alongside, survivors of atrocity violence, from Yazidi women in Syria and the Uyghur communities in exile from Xinjiang to the women and human rights defenders of Afghanistan and many others. Their stories are a glaring testament to the collective failure to stand resolute in the face of atrocity crimes and hold accountable those who continue to perpetrate this kind of identity-based violence.

Of today's major and emerging foreign policy crises, the vast majority – from Ukraine, Sudan, Syria, Israel and the Occupied Palestinian Territories to Ethiopia, Myanmar and Xinjiang – are driven by violent targeting of civilian groups based on their identities. If left unchecked, the global propellants of prejudice and inequality, climate collapse, the retreat from liberal democracy, and the great changes in technology, as we see in social media and so on, mean that identity–based mass atrocity crimes will multiply over the next decade. Of that I am sure. We are already seeing it happening.

At the same time, growing disregard for international law, for the Universal Declaration of Human Rights and our collective responsibilities to prevent mass atrocity and protect populations has ushered in an age of impunity. We have failed, time and again, in the face of these grave crimes, and as a consequence our world – indeed, our nation – is less safe and becoming less so. Impunity begets impunity.

Regrettably, these crimes have deep consequences. Perpetrators commit genocide and crimes against humanity because they work, at least in the short term; they fulfil the dreadful political objectives of their architects. It is not a nice fact, but it is a true one. It is past time that we, and our government, accept it. For too long, the reluctance to do so has created a strategic and moral deficit in government policy.

It is also commonly said that armed conflicts are a precursor to the commission of mass atrocity crimes, but in fact it is not always that way round. Indeed, during the many human rights crises of the modern age, mass atrocities often came first and caused armed

conflict to break out. For example, mass atrocities drove armed conflict in Yugoslavia and Rwanda in the 1990s and failures to adequately respond to mass atrocities against the Rohingya in Myanmar in 2017 emboldened the Tatmadaw, contributing to their seizure of power in February 2021 and the ensuing civil war.

As parliamentarians, we have stood in outrage, time and again but it is not sufficient. Outrage does not help to protect innocent civilians from deliberate or indiscriminate attack, arbitrary detention, summary execution, sexual violence and torture, or forced starvation. You need not look any further than the ongoing conflict in Israel and the Occupied Palestinian Territories, including the horrific attacks on 7 October and the unfolding humanitarian crisis in Gaza.

> **"I want to see this country become the nation that has the loudest and clearest voice when it comes to the rule of law and respect for human rights. There is clearly much to do to achieve that…**

And while it is welcome that the previous government in 2021 identified mass atrocity prevention[1] as a new foreign policy priority, more action is needed to achieve real change.

Firstly, to ensure the UK properly prioritises atrocity prevention, it is vital a statutory mandate – which is bolstered by political leadership and strategic vision – is introduced. This mandate should elevate and leverage the important work of the Foreign, Commonwealth and Development Office's mass atrocity prevention hub; while also requiring the monitoring of the steps that take people, and governments, on a trajectory towards genocide.

Secondly, more needs to be done to enshrine the need for senior political leadership and ownership of the UK's moral and legal obligations to prevent and protect. By introducing measures such as the statutory duty, the UK would be able to re-energise commitments to international humanitarian law and rehabilitate our country's battered reputation on the global stage, which has happened as a result of our pulling away from our international obligations.

Thirdly, measures must be introduced to support and train embassies and country teams on the dynamics and warning signs of modern atrocities, and the trajectory towards genocide in some cases. The UK government has already committed to doing this, but is yet to deliver on it. UK country teams in fragile or violent states have to be properly resourced to embed atrocity prevention thinking and strategy within their policy and programming.

Finally, to drive this work forwards, it is crucial there is a ring-fenced budget that guarantees consistent resourcing for mass atrocity early-warning systems, strategic policy-making and effective implementation.

It is evident that any meaningful development of a strategic approach to preventing and responding to mass atrocities must bring together senior representatives of government departments – No. 10 itself, the intelligence agencies and multilateral representatives, from

the UN to NATO. Atrocity prevention has been a core national security interest for the United States since 2011, supported by a clear atrocity prevention strategy launched in 2022. I knew and was a huge admirer of Elie Wiesel, the Holocaust survivor, who was very much at the heart of persuading the American State Department to take these steps and to create a hub that was about genocide prevention and atrocity crime prevention.

I want to see this country become the nation that has the loudest and clearest voice when it comes to the rule of law and respect for human rights. There is clearly much to do to achieve that, and I hope the new UK government will strengthen and build on the work already being done in this area. We are at a critical point, and it is vital the UK plays a leading role when it comes to the prevention of mass atrocities across the world.

Helena Kennedy KC *is a leading barrister and an expert in human rights law, civil liberties and constitutional issues. She is a member of the House of Lords and chair of Justice – the British arm of the International Commission of Jurists.*

Endnotes

1 https://www.gov.uk/government/publications/global-britain-in-a-competitive-age-the-integrated-review-of-security-defence-development-and-foreign-policy

Bridging the legislative gap on corporate exploitation

Luise Schroter of the Corporate Justice Coalition on calls for a new law to improve corporate accountability.

Should UK companies be allowed to profit from the exploitation of people in their upstream and downstream supply chains? From environmental destruction? From violating human rights?

These are rhetorical questions to which most would probably say: no, of course not. Yet these abuses happen with shocking regularity in value chains involving UK companies.

From worker exploitation in Leicester[1] to environmental destruction in the Niger Delta[2] to the killing of human rights defenders in Indonesia[3], UK companies are involved in – and indeed profit from – value chain human and labour rights abuses and environmental destruction both in the UK and overseas.

Voluntary commitments by companies have long failed to tackle these issues. At the international level, via the UN, this was recognised to be true more than a decade ago via the unanimous support – including from the UK – of a new approach to stop and remediate such abuses: 'human rights and environmental due diligence'.

A new law specifically requiring UK businesses to undertake due diligence to prevent human rights abuses and environmental harms linked to their activities is desperately needed – and called for by parliamentarians, businesses, investors, civil society organisations, trade unions and the UK public.[4]

YouGov polling shows that 4 in 5 Britons[5] are in favour of new laws to end exploitation and environmental destruction, and more than 125,000 have signed a petition for a new Business, Human Rights and Environment Act.

The new government must heed these calls and live up to its long history of legislating for more equality, social justice and environmental protection. Businesses already committed to human rights and the environment need a level playing field. Corporate impunity for those exploiting people and planet must end.

The business responsibility to respect human rights and the environment is by no means a new concept. In 2011, the UN Human Rights Council unanimously adopted the UN

Guiding Principles on Business and Human Rights (UNGPs) and acknowledged that respecting human rights is the global standard of expected conduct for all businesses. This includes respect for the environment and labour rights, as made clear by various international bodies and instruments.[6]

According to the UNGPs, businesses should undertake human rights and environmental due diligence (HREDD), a process to 'identify, prevent, mitigate and account for' how they address harm occurring in their operations and value chains. Barriers to justice for those affected have to be broken down and harms remedied.

Yet, few businesses conduct HREDD. KnowTheChain, which scores companies in the ICT, food and beverage, and apparel sectors based on voluntary adherence to the UNGPs, gave an average overall score of 19/100 across all three sectors in 2023.

Perhaps unsurprisingly, given this reality, the situation for victims has not improved. They continue to face barriers to justice and claims for damages for human rights and environmental harm are tied up in courts for years.

> **A new law specifically requiring UK businesses to undertake due diligence to prevent human rights abuses and environmental harms linked to their activities is desperately needed…**

Take the example of a claim against Shell from Niger Delta communities which reached the UK Supreme Court in 2021 after a six-year slog. Having only addressed whether jurisdiction exists, the case is still unresolved. The Ogale and Bille communities continue to suffer from widespread oil pollution contaminating their water and destroying their way of life. The cost and time it takes to bring cases like these to court, the jurisdiction challenges created by harms occurring in one country at the hands of parent companies in another, and the fact that most of the relevant information is often in the hands of the accused business, make it impossible for most victims to ever receive remedy from the courts.

The Shell case led to a landmark ruling which, if not backed up by legislation, shows businesses how to escape liability in the future. The Supreme Court established that a duty of care can exist between parent companies and those affected by their subsidiaries under certain conditions, e.g. group-wide policies. Thus, businesses seeking to avoid liability will loosen their control over their subsidiaries in the future – the very opposite of what the UNGPs envision.

Yet while businesses continue to fail to conduct HREDD, there is cause for hope in the evident global trend towards embedding mandatory HREDD into domestic laws. Germany, France and Norway have stepped up and adopted value chain due diligence legislation. The EU followed suit and adopted a directive this spring. Meanwhile, the UK is lagging behind, failing in its commitment to the UNGPs.

There has been a distinct failure from government to address corporate human rights abuses and environmental destruction

While breaking new ground, the Modern Slavery Act 2015's 'transparency in supply chains' provision has failed to end forced labour in corporate value chains. Its limited demand for value chain transparency – without action to tackle abuses – is not enforced, with, shockingly, some 40 percent[7] of businesses consequently not bothering to comply. As Parliament's former Business, Energy and Industrial Strategy (BEIS) Committee put it in 2021: the act and BEIS department policy are 'not fit for purpose' to tackle forced labour in value chains.

In the same year, Parliament's Foreign Affairs Committee recommended the introduction of new legislation requiring businesses and the public sector 'to take concrete measures to prevent and remove the use of forced labour in their value chains'. Its advice was ignored by the former government.

> **It is abundantly clear that government cannot sit idle while corporate impunity reigns – and while neighbouring trade partners move forward with their own new value chain laws: the pressure for change is increasingly both moral and pragmatic.**

The Environment Act 2021, the first legislation to include value chain due diligence, also falls short. The Act's deforestation due diligence schedule still requires regulation to become operationalised, is limited to illegal deforestation, and does not address Indigenous Peoples rights. Notably, the former government ignored its own multi-stakeholder taskforce's recommendation to introduce mandatory human rights and environmental due diligence.

The UK was not always a laggard. It was once, briefly, a leader on these issues on the global stage: it was the first country to publish a National Action Plan on the implementation of the UNGPs. But then it started to rely more on symbolic law-making – sub-par laws adopted for political ends – rather than legislating to tackle both causes and symptoms of human rights abuses.

The blueprint for effective, world-leading corporate legislation, a 'failure to prevent' mechanism, has existed since the 2010 Bribery Act. Crucially, it was specifically recommended to be used as a model for implementing the UNGPs by Parliament's – cross-party – Joint Committee on Human Rights in 2017.

In the past decade, laws on criminal finances and economic crime have all adopted the failure to prevent model. In 2020, the British Institute for International and Comparative Law concluded that using the same model for human rights due diligence is legally feasible. And in 2022, the Law Commission listed it as one of the options for reforming corporate criminal liability.

There is little doubt that this world-leading model would hold great value for transposing the UNGPs into UK domestic law. Firstly, it would require businesses to conduct effective human rights and environmental due diligence to prevent human rights abuses and environmental harm. Secondly, once any harm occurs, it would lead to improved judicial

decision-making and access to justice as the burden of proof would rest with the party best equipped to provide it: businesses.

In November 2023, the crossbench peer Baroness Young of Hornsey introduced the 'Commercial Organisations and Public Authorities Duty (Human Rights and Environment) Bill' in the House of Lords. The bill uses the failure to prevent model and is a laudable example of what a thoroughgoing due diligence law – what Corporate Justice Coalition calls a Business, Human Rights and Environment Act – could look like.

The ball is very much in the court of the new government. The Labour Party's National Policy Forum has committed to 'assess' the best way to prevent human rights abuses and environmental harm. And, during the second reading of Baroness Young's Bill, Labour said it supported the principles of the Bill. We will need to see action.

It is abundantly clear that government cannot sit idle while corporate impunity reigns – and while neighbouring trade partners move forward with their own new value chain laws: the pressure for change is increasingly both moral and pragmatic.

Do it right, and the UK can begin to move from laggard back to leader and, crucially, stop UK business and investor complicity in the wrecking of people and planet in the name of profit.

Luise Schroter *is policy and campaigns officer at the Corporate Justice Coalition advocating for legislation to hold businesses accountable for causing or contributing to human rights abuses and environmental destruction. She specialised in business and human rights academically and as a student campaigner in Edinburgh.*

Endnotes

1 https://www.bbc.co.uk/news/uk-67218916

2 Corporate Justice Coalition – Bridging the gap. November 2023

3 Demanding accountability – Strengthening corporate accountability and supply chain due diligence: Indonesian palm oil sector case studies, T Griffiths and N Jiwan, June 2021

4 www.goodbusinessmatters.org

5 YouGov poll conducted for Corporate Justice Coalition and Friends of the Earth with 2,124 UK adults 5th-7th April 2024, available at https://corporatejusticecoalition.org/news/press/press-release-four-in-five-uk-adults-support-new-laws-to-tackle-environmental-harm-and-human-rights-abuses-in-company-supply-chains/

6 Eg OECD Guidelines for Multinational Enterprises (2023)

7 Briefing from Business & Human Rights Resource Centre and Modern Slavery Registry (February 2021)

Listen to the voices of lived experience

Community worker **Tracey Herrington** explains why those with lived experience of disadvantage must take part in policy-making.

I have worked in the community for many years as part of Thrive and Poverty2Solutions and have directly experienced poverty and disadvantage. Through my experiences, it is clear that our socio-economically disadvantaged community has been targeted with punitive and harsh policies and been at the sharp end of confusing local decision-making.

Why are these decisions made? Are decision-makers trying to help and alleviate the situation or purposefully making things worse? Our community wants to see the enactment of the socioeconomic duty under section 1 of the Equality Act. We also want guidance on its best practice implementation and monitoring developed in partnership with people who have lived experience of socio-economic disadvantage.

Simply passing the duty into law without the involvement of lived experiences will not lead to better policy-making and fairer outcomes. However, by working collaboratively, we can take the first step in a longer and more ambitious journey, ensuring the implementation of the duty drives forward the transformative approach to policymaking intended by the spirit of the law.

Lived experiences may be seen as one of the buzzwords of recent years but it is important to fully understand what is meant by lived experiences and why they matter. Having lived experiences of an issue, for example poverty and/or socio-economic disadvantage, means having direct and recent experiences of it, which is best conceptualised as a form of expertise. This expertise informs how 'issues and problem situations' are understood in context. It makes visible the invisible, bringing insight that is not immediately apparent to the outsider and can ensure debates are fully informed and can be harnessed to develop positive solutions for social change.

'*There is a big assumption that because someone is in a position of power, is educated and has a degree that they are somehow an expert on life. This can be the case, but sadly, does not guarantee it. For example, the best people to know how a factory works are the people on the shop floor and not the managers. Lived experience is essential, they know what is wrong and what needs to [change]*'
Mark, Thrive Teesside

Everybody has lived experiences and we can all bring this experience to decision-making tables to fully inform debates. Unfortunately lived experience of socio-economic disadvantage is rarely truly harnessed and generally overlooked. If this insight is included it is often in the form of consultations and tick box engagement exercises. This insight and knowledge is extracted and then left to be analysed by others in a professional capacity who then make decisions, decisions that all too often create further problems and hardship.

To meaningfully 'pay due regard' with the aim of reducing inequality, a participatory approach to local decision-making and national policy development is essential. The community we work alongside often talks about something more than their lived reality as it is now, they speak about their dreams and aspirations, about living life to the full and not just existing. They don't just want to get through the grind of each day, worrying about what they will say to their children when they are asking to go on a school trip or visit the cinema. They do not want the job centre 'on their back all the time' or hearing judgements made on how they spend what little money they have. Life is tough in many ways and both local practice and national policies generally make life harder – never easier. Priority bills and food are going up at a phenomenal rate. Access to services and doctors is becoming increasingly difficult. Days out are nigh on impossible and it is futile keeping up with all the additional costs associated with the school day.

> **Having people who are affected by policies as part of the decision-making processes is key to ensure they are workable, effective, and honour the fundamental principles associated with democracy.**

When looking at national policy responses and guidelines which trickle down to local practice to address specific areas of concern, there are many examples where the policy's implementation has made life harder for people. Take for example third party debt deductions from either a low wage or social security entitlement. This policy is intensifying and exacerbating the precarious financial situations of many and thus widening gaps associated with inequality. Third party deductions should only be made when 'it is considered to be in the best interest of the customer or the customer's family… and… when all other avenues of recovery have been exhausted'. However, whilst working with people who have a deduction taken from an entitlement, I have seen that this has often not been the case.

J talked about how the first thing she knew about the deduction was when she went to access her benefit entitlement and realised money had been deducted. Nobody had got in touch with her beforehand or if they had sent a letter, she was not aware. J admittedly struggles to open letters; she is fearful of what they say, and it makes her anxious. 'I know I am in debt and owe money, but how can I even think about paying back council tax or rent arrears when I can't even afford to live. The amount of Universal Credit I receive doesn't even cover what I have to pay out. I skip meals most days, don't do anything for myself and can't even get my little banger back on the road'.

It becomes clear when talking to J, that no conversations had taken place to assess affordability when imposing her repayment plan. There also appears to be a lack of awareness of the negative impact of reducing her household income when she is already struggling. The very immediate impact of J's debt deduction was one of pushing her and her family further into poverty, hardship and increasing inequality. Already unable to fully participate in community life, making harsh choices around feeding herself or her children, forfeiting trips and days out, not being able to look after her own family's wellbeing, J's list of cutbacks continued to get longer.

It is when witnessing this lived reality and listening to the negative impact that policies can have on people's lives that we reaffirm our vision to revolutionise policymaking. It is important to remain focused and determined to break through outdated policy development approaches and local practice by using participatory methods that prioritise people at the core, ensuring decisions that are made have a positive impact on lives and the ability to realise potential.

At Thrive we welcome the commitments in the Labour Party's policy handbook to 'enact the socioeconomic duty under section 1 of the Equality Act' and embrace the positive development that would create a legal imperative for authorities to pay 'due regard' to the desirability of reducing inequalities caused by socio-economic disadvantage and poverty in their policy-making and budgetary decisions.

However, to safeguard the intention of the implementation of the socio-economic duty and decrease inequality in disadvantaged communities, it is imperative that policy responses are informed by lived experiences. This is an opportunity to ensure safeguards and a fairer and more resilient system are put in place. Having people who are affected by policies as part of the decision-making processes is key to ensure they are workable, effective, and honour the fundamental principles associated with democracy.

Tracey Herrington *is project manager at Thrive Teesside, a small organisation that advocates for the voice of lived experience to be included in decision-making processes.*

Future goals for a new Labour government

Leading human rights barrister **Jamie Burton KC** argues that the new Labour government needs to embed social rights in the constitution.

The Labour Party understandably defends its legacy. It proclaims on its website that it 'has always been about people. It was formed to give working people a voice and has sought power in order to improve their lives.' It highlights its unparalleled achievements as creating the welfare state, social security and the NHS, banning capital punishment, building over a million council houses and, more recently, enacting the Equality, Climate Change and Human Rights Acts. It proudly states that 'Labour has changed Britain for the better, through the most progressive governments in our country's history.'

Importantly, these progressive changes have survived despite Labour being out of power for most of the time since. Consecutive governments may have persistently underfunded the welfare state, but none have dared to ask for a mandate to dismantle it, and despite factions of the media and politicians seeking to capitalise on anti-human rights propaganda, there is no public interest in repealing the 1998 Act, or any of Labour's other big reforms. This is important because it demonstrates that the Labour Party can and has created lasting positive change when it is bold and leads with purpose and principle.

As Labour takes the reins anew, questions have naturally been raised, at times critically, about what Labour intends to do this time. In this state of apparent perma-crisis, how will Labour improve our country? What are the big societal interventions for which Keir Starmer's Labour will be remembered?

Serious thought should be given to extending the protection of human rights to include socio-economic rights, such as the right to adequate housing, food and social security, education, work, and the highest obtainable standard of health. Whether in the form of amendments to the Human Rights Act (HRA), or a genuine British Bill of Rights (unlike the imposter proposed by Dominic Rabb), enshrining these rights would certainly meet the criteria of serious structural reform that favours 'working people'.

The precise form and content of such an enactment would obviously require careful deliberation, but its fundamental effect would be to reduce the rates of destabilising inequality and persistent poverty (to which we risk becoming inured) by guaranteeing everyone the basic material conditions of a flourishing life. The principal mechanism of achieving this would not be litigation, as many critics suggest, but the making of

governments and public authorities directly accountable to the substantive and procedural standards embedded in the rights, with the means of meeting those standards remaining a political choice. Rights would inhibit if not prevent blatantly regressive or ineffective ballot box-friendly policies and stop the scapegoating of groups who are less likely to or cannot vote, including those on low incomes or many immigrants and asylum seekers.

> **When enacted, the HRA was intended to be a stepping stone towards a comprehensive human rights instrument that placed all human rights, including Brown's social rights, on an equal legal footing…**

In its 2022 report Gordon Brown's Commission on the Future of the UK advocated for 'new, constitutionally protected social rights ….. relating to health, schooling, poverty and housing …. that reflect the current shared understanding of the minimum standards and public services that a British citizen should be guaranteed.' In fact, when enacted, the HRA was intended to be a stepping stone towards a comprehensive human rights instrument that placed all human rights, including Brown's social rights, on an equal legal footing, in recognition of their inherent indivisibility and interdependence. And, of course, on the international plane, the UK has long since subscribed to the UN covenants on both civil and political and social, economic and cultural rights.

Doubtless Keir Starmer, a renowned human rights lawyer, recognises socio-economic rights as a force for good. There are at least five reasons why now is the right time to incorporate them.

First and foremost, as with all its other achievements, it is the right thing for Labour to do. As I have argued elsewhere[1], the last two decades have seen the creation of a new class, the 'rights vulnerable', a cohort that shouldered the heaviest burden through the financial crisis and the austerity that followed it, then the pandemic and after that the cost of living crisis. As a result, very many people, including millions of children, are not enjoying as they should an adequate standard of living, including food, travel and housing, the highest obtainable standard of physical and mental health or just and favourable conditions of work. This should not have been allowed to happen and must never be repeated. It is morally right that everyone should be protected in law against such unnecessary deprivation.

Second, the enactment of social rights would give meaningful substance to Labour's constitutional reform agenda. There is legitimate concern about cronyism, and the House of Lords doubtless needs serious reform if not replacement, but nobody is seriously contending that the constitutional changes currently being proposed by the new government will significantly improve the lived experience of the rights vulnerable, or bind the country together behind a progressive ideal based on a coherent set of values. Gordon Brown's Commission understood this: 'The rights which British people enjoy to key social provisions, most notably free healthcare and education, are also very highly valued, and may more often be more to the front of people's minds when they think of being a citizen of the UK.' For younger generations who don't believe that their lives will be even as good,

never mind better than that of their parents, a commitment to legally protect their socio-economic rights, including a healthy environment, would be very attractive.

Third, it is time for the new government to regain the initiative on human rights. Labour's reluctance to defend human rights is rooted in an archaic fear of being seen on the side of unpopular groups. This has boxed Labour into a corner from which no obvious advantage has been gained. Instead, Labour comes across as confused about its identify and weak on issues of principle of which it ought to be proud and will remain associated with in any event. The Party must not fight the battles of the past but instead trust in its core values and longstanding support of human rights. Besides, the objective evidence[2] suggests that socio-economic rights, which have everyday significance for everyday lives, are extremely popular, especially with younger voters. Labour should embrace this and banish cynicism about human rights in politics, forever.

Fourth, enacting socio-economic rights would be both practically feasible and relatively commonplace. Indeed, the UK, or at least England and Wales, is at risk of falling significantly behind other liberal democracies. In 2018 sixty-five countries globally had enshrined economic, social and cultural rights in their constitutions, twelve in Europe.[3] Closest to home, the Scottish government has concrete plans for a new Human Rights Bill that would see full incorporation in relation to devolved matters. The failure to protect these rights is an anomaly that Labour should fix.

Finally, not only would be it be morally right and in accordance with Labour's history and principles, popular with large parts of the electorate and eminently feasible, a commitment to enshrine all human rights would put clear water between Labour and the other parties. And as history shows, it is when Labour stands behind its principles and trusts its convictions that real tangible improvements in our society materialise. Labour will inevitably lose power again in the future and, just like last time, some hard-fought gains (like the reduction in child poverty) may be lost. As the Brown Commission again realised, the great value of 'embedding' social rights in the constitution is that it would 'entrench them against future threats of removal'. That opportunity must not be missed.

Jamie Burton KC *is head of Doughty Street's Community Care and Health team, and the chair and founder of Just Fair, a civil society organisation which champions economic, social and cultural rights.*

Endnotes

1 'Three times failed: Why we need enforceable socio-economic rights' authored by Jamie Burton KC for Legal Action Group, January 2023

2 'What Do the Public Think About Economic and Social Rights? Research Report to Inform the Debate About a Bill of Rights and a Written Constitution' by Polly Vizard, LSE, June 2010

3 'Models of Incorporation and Justiciability for Economic, Social and Cultural Rights'. Authored by Dr Katie Boyle for the Scottish Human Rights Commission, November 2018

Designing out homelessness

Leading local authority councillor **Sharon Thompson** experienced homelessness as a teenager. She says the government must implement an effective strategy for housing, not just homelessness.

Article 25 of the Universal Declaration of Human Rights states: 'Everyone has the right to a standard of living adequate for the health and well–being of himself and of his family, including food, clothing, housing and medical care and necessary social services.'

A home is assumed in Article 8 of the Human Rights Act 1998: 'Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference … with the exercise of this right except … in accordance with the law and as is necessary in a democratic society in the interests of … public safety or the economic well–being of the country … or for the protection of the rights and freedoms of others.'

However, for increasing numbers of people in this country, a home is not an assumption we can make. Homelessness is the ultimate exclusion, separating the person from the ability to enjoy their human rights.

Individual and structural factors drive homelessness and exclusion – we need to tackle both. We must create an inclusive universal domain which enables people to thrive and use their talents and skills. And we must provide compassionate responsive assistance to those who need it, at the earliest opportunity, to enable them to remain within the universal domain.

> **Homelessness should be the exception – not the preferred or intentional route to housing. But too often it is the default route in a system where need hugely outstrips supply…**

Homelessness should be the exception – not the preferred or intentional route to housing. But too often it is the default route in a system where need hugely outstrips supply and allocations systems are forced to focus on those in the most desperate circumstances.

What should we aspire to and plan for? An accessible, affordable, desirable housing offer which underpins our ability to live, work, earn and learn; to make a home, to be safe, to connect. Without that, the cycle of homelessness is perpetuated, and prevention becomes a short term gate–keeping measure delaying the often inevitable.

Homelessness is about economic inequality at all levels, with some communities and people, including women, those from Black, Asian and other minoritised communities, LGBTQ+ people, and young people, more exposed because of structural inequalities. It is about:

- policy and investment choices which prioritise short–term rescue services rather than tackling root causes
- poverty which creates an inability to meet your own and your family's needs
- power inequality and compliance with system expectations, employing deficit rather than asset–based approaches, instead of making the system inclusive for all.

We will always have a homelessness problem until we have a national housing and inclusion strategy and an implementation plan which meets household needs over the timeframe of successive parliaments. Otherwise, we will continue to patch up those most vulnerable to falling out of the system to make them fit to fight for tightly rationed resources.

> **We need a national housing strategy… which addresses affordable, safe, decent, and sustainable housing which allows individuals and families to live and work and contribute to their communities. We need to reclaim the meaning of 'social security'.**

In the West Midlands, our collective ambition is to 'design out homelessness'. This means ensuring that our mainstream services and systems are *INclusive* and keep people in homes, jobs, communities, education, and safe support. We mean intentional, perpetual prevention of the ultimate exclusion of homelessness.

We have taken a life–course approach using the Positive Pathway model, examining what we have in place and where gaps exist for children and families, young people, and older people, paying particular attention to those who are serially excluded.

Initially developed by St Basil's to prevent youth homelessness, it has much wider relevance. It is the framework for our homelessness strategy in Birmingham as well as our West Midlands Combined Authority Designing out Homelessness strategy. The pathway model looks at five domains: universal prevention; targeted prevention and early help; crisis prevention; recovery and move on; and a sustainable home.

The framework enables each system to consider fundamental questions. What is our universal offer? What is in our universal space which all may access and experience, for example, in education, health services, housing, public services, community assets, public spaces, and employment. How successful is it? Who is likely to fall out and how do we prevent them from doing so? How do we use our collective resources such as finance, planning, regulation, assets, and powers to enhance the universal domain? Do we use them in a creative way to take a prevention–first approach or do we focus them on the point of crisis? What is mandatory and what is discretionary?

The challenge for local authorities can be how to meet mandatory requirements without funnelling resources into crisis and how to lever–in wider contributions from other sectors and partners, making the whole greater than the sum of the parts.

It is a collaborative partnership approach which enables all sectors – public, business, voluntary and community – to consider what are our assets and how we make best use of them collectively to prevent crisis and optimise INclusion. Research shows that early spend is more effective than late spend, both socially and financially. So it is in our collective interests to move from a system of silo services (high access thresholds, generic approaches, and often multiple exclusions) to one where there are integrated, simple access routes, early intervention, and accessible, skilled, compassionate assistance. These keep people in the universal domain, reducing financial and social costs for all.

Our approach is based on the principle that we need to make the universal domain inclusive for everyone, including the most vulnerable. We need to move from a cycle of exclusion where each event makes the next more likely, to a cycle of Inclusion which keeps people in the universal space.

What does INclusion look like?

INclusion Education: Understand the underlying issues; offer unconditional support; keep the child in school; support the family; intensify targeted support where required in a respectful way.

INclusion Employment: Create pathways into employment for those furthest from the labour market; 'good work' for all including fair opportunities for ex–offenders; a housing offer to underpin work. Employers help those in their workforce who experience difficulties – including homelessness, domestic abuse, mental health issues – and provide access to confidential early help.

INclusion Welfare: Link universal credit to minimum income standards above destitution levels; realign housing benefits with housing costs; remove SAR for under 35s; reinstate Employment Maintenance Allowance; reclaim the meaning of social security.

INclusion Housing: Develop a national housing strategy not just a homelessness strategy; increase capital subsidy for social housing and make rents truly affordable to enable people to live, work, earn and learn; exclude affordability criteria in allocations policies for social housing; create a duty to collaborate to prevent and relieve homelessness; provide bespoke housing management and fund housing–related support.

INclusion Health and Social Care: Provide life course accessible health support; ensure that integrated care systems focus on keeping people in and that access to mental health support is part of the universal service. We need timely access to health and social care. Ensure transition to adulthood is a developmental transition not a service transition.

INclusion Community: Optimise social and community network support for people when allocating housing; understand the need to build social capital and positive belonging; investment in the whole person; optimise the wider social value of community and voluntary sector; ensure the voice of those with lived experience is heard at all levels.

We need to recognise the limitations of our knowledge and personal experience, our unconscious and conscious bias, in order to respond effectively and co–create a universal space which works for everyone and keeps people in the mainstream. We need to develop policy which makes a difference and strategy which achieves the difference the policy requires.

The new government will be judged on whether it tackles homelessness. With the promised removal of Section 21 'no–fault' evictions, the government can make early strides. However, far more work will be needed. Mike Amesbury, then shadow minister for building safety and homelessness, recently wrote that trauma–informed care and prevention is key to preventing homelessness. This holistic approach – alongside a rigorous plan to build 1.5 million homes alongside adequate infrastructure – is what is needed to end the crisis of exclusion.

Fundamentally we need a national housing strategy not just a homelessness strategy; one which addresses affordable, safe, decent, and sustainable housing which allows individuals and families to live and work and contribute to their communities. We need to reclaim the meaning of 'social security'.

We need to plan for what we want to achieve not just what we want to avoid. When we create enabling, INclusive environments and integrated, purposeful systems, people can thrive. As a wise woman once said, 'if we get it right for the most vulnerable, we have more chance of getting it right for everyone.'

After all, 'Leadership is what leadership does.'

Sharon Thompson, *Labour councillor for North Edgbaston ward, is deputy leader of Birmingham City Council, cabinet member for economy and skills, and deputy Mayor of West Midlands Combined Authority. She is a strong advocate for legislative change on housing and local government resources.*

‘Bad’ disruption: rule changes that threaten the right to protest

Human rights law professor **David Mead** argues that new legal restrictions on disruptive protest must be reversed.

There has been an obvious shift in recent years in the way campaigners protest. While there is still room for the large-scale march and demo – think of those in support of Palestine – many activists have turned towards disruption as the key towards unlocking either greater public sympathy or highlighting current iniquities. Whether such tactics are likely to backfire and elicit not greater support but less is not my concern. Instead, my focus is on the ways in which disruption as part of political activism is increasingly subject to legal regulation. I will argue, first, that disruption is a necessary element of a working democracy. Secondly, that we tacitly recognise and accept forms of ‘good disruption’ without much question. Finally, I will show the various recent ways in which ‘bad disruption’ has been outlawed and de-legitimised, and suggest that this is a (very) unwelcome development.

Staged mass demos have the capacity to play a role in changing if not the world then at least parts of it. Assemblies serve varied purposes: giving vent to frustrations, empowering us to feel we make a difference, providing witness and, through numbers or noise, catching the eye of the serendipitous shopper. History is replete with examples of disruptive direct action leading to socio-political change. It is not a recent phenomenon, but it is very much on the rise. People feel they are not being listened to, see that more formal outlets for protests are increasingly restricted, or they consider the threat, in the case of climate change, is too pressing and too real to feel bound by the historic niceties of placards, petitions and presence.

Police and politicians who speak of being fully supportive of ‘lawful protest’ but against protesters who ‘disrupt the hard working individuals who are trying to keep this country moving forwards’[1] misrepresent what the law actually is. Human rights law protects not simply lawful protests but peaceful protesters. It must be this way or else human rights protections could never protect a protest from being criminalised. The key to protection is whether the organisers or participants have violent intentions, incite violence or otherwise reject the foundations of a democratic society[2]. This explains why the thousands so far arrested and charged with violent disorder this summer, arising from the protests against immigration instigated by the far right, will have no protection in human rights terms. This means that there is a human right to engage in disruptive protests; those who participate will be protected unless it is proportionate on wider social interest grounds to limit it, and even then, only as narrowly as possible to achieve that aim. A long line of court decisions has held that road sit-ins, occupations, and obstructing construction works all come under the

rubric of protection. This means that imposing blanket restrictions on such forms of disruptive political activism will almost certainly be unlawful in human rights terms.

> **Do we relish being lumped in with Turkey, Philippines, Belarus, Russia and Egypt, the only countries with similar protest banning orders?**

Disruptive protest is a necessary part of the democratic political contest of ideas. Simply by being out of place through their lack of everyday mundanity, disruptive assemblies force us into confronting our existing understandings of the world. Protest needs to have an element of necessary disruption if it is to have any chance of being effective.

This is not to suggest that, as part and parcel of a healthy free society, I recommend everyone be forever exposed to such levels of disruption that life becomes intolerable. However, we have fallen victim to a successful campaign by the former government and its (generally) responsive press that we should expect never to be disrupted. I would argue that not only should we have to put up with views we do not like and campaigns we do not agree with, but we should in a democracy welcome and facilitate them – it shows maturity and offers the possibility of progress, not stasis and decline.

It takes bravery to espouse the value of peaceful but disruptive protest – valuable not just to those exercising it but of wider social utility and public value: to those whose minds might be changed, or to you tomorrow who might want to protest about something dear to your heart. We need to tackle Protest NIMBYism. Media discussions about protests in the past few years have generally been to personalise the narrative – individual portrayals of activists as entitled and wealthy, individual stories of harm suffered by a slow walk – whereas the true story is of protest, and disruption, as a collective good.

Even if that were not so, it is undeniably true that in our everyday lives we are expected to tolerate a whole host of public disruptive gatherings with little question ever asked about 'Should we have to?' or 'Why should I have to miss a GP appointment for this?' These are 'good disruptions'. Those, like me, who live near football grounds are expected, on alternate Saturdays from August to May to give way to thousands of fans being disgorged from the stadium, wending their way through slowly moving traffic back to their cars or to the train station. We might also think, in the good old days, of people queuing overnight and round the block for the first day of the January sales, or the winding, snaking queue of people just south of the Thames, waiting to pay individual respects to the late Queen as she lay in waiting. Of course, that's different, you say – but why is it, and how? What is it about one thousand people coming together with placards and megaphones that means that, under English law, they need to give six days' notice to the police of their intention to hold a 'public procession' but none of the same one thousand people strolling along at the same pace, shopping on the same street needed to? Where and why is the harm greater? Why are the police increasingly and speedily coming down on more recent tactics – slow walking and sit ins – whereas double parking and traffic jams are just an incident of trying to get around a city? We may, again, not agree on this but I hope I have highlighted that a simple binary is mistaken, and that this is the more so when we realise that marching

expressively with others is the exercise of a protected human right, under Article 11 of the ECHR, whereas queuing for a TV reduced to £50 is not.

All that runs counter to the recent trajectory of the law. The focus of the two recent pieces of public order legislation has been aimed at curbing 'serious disruption'. It is the key term in the Public Order Act 2023, which has created a raft of new offences – locking on, tunnelling, obstructing major transport works, and interfering with the use or operation of key national infrastructure – and powers, such as serious disruption prevention orders (SDPOs).

'Serious disruption' has existed as a trigger since 1986, allowing the police to impose restrictions on marches and assemblies if serious disruption to the life of the community is reasonably believed to be likely, but its meaning has been greatly expanded by the 2023 Act. 'Serious' is defined as anything 'more than minor'. It does not take a lawyer to suggest that in ordinary language, there would usually be some distance between 'serious' and 'more than minor'. Someone hindered for say 10, maybe 15 minutes, from making a single journey can now be said, under the new definition, to have suffered 'serious disruption'. On top of this, the powers can be used on a predictive basis, essentially the police's view of what might happen in the future. Again, it does not take a lawyer to see the increase in police discretion this permits; officers may now impose whatever conditions appear necessary to prevent 'more than minor disruption'.

There is a host of other concerns with the new legislation: were the new offences needed, or does the Act simply duplicate? Does a trigger that permits conditions based on significant or seriously disruptive noise have the potential to strike at the very existence of protests? Do we relish being lumped in with Turkey, Philippines, Belarus, Russia and Egypt, the only countries with similar protest banning orders to our SDPOs (and in fact none of them allows as long a duration as our two years) each underpinned by the now expanded concept of 'serious disruption'? The combination of uncertainty combined with width heralds considerable police discretion, and that leads to this last point; the chronic lack of effective mechanisms to constrain police use of these broad powers. There is very little opportunity to make a timely challenge in advance. Many, faced with a demand from an officer will simply accede or return home, their rights 'chilled'. Anyone who persists will likely be arrested, yet a successful defence some months later before magistrates will not help. The time to protest will have been lost.

Respect for the right to peaceful protest and an acceptance that within the human rights framework protests can be disruptive, is essential to a healthy, free society. The new government must make this a reality, by ending the criminalisation of peaceful protest and rolling back laws which undermine these rights.

David Mead *is professor of UK Human Rights Law at the University of East Anglia, specialising in protest/public order, policing and the Human Rights Act.*

Endnotes

1 Former home secretary Priti Patel in an article written for the Daily Mail, 6 September 2020

2 Kudrevičius v. Lithuania ECHR

Out of the wilderness

Francesca Klug, visiting professor at LSE Human Rights, asks if we stand at a watershed moment for human rights in the UK.

In an era when the UK struggles to claim front–runner status in many spheres, it is fast achieving a reputation for leading an assault on international human rights by democracies which once proclaimed them.

It may seem hard to imagine now, but it is only a blink of an eye since Britain took pride in trailblazing human rights norms across the world, beginning with embracing the post-war 1948 Universal Declaration of Human Rights (UDHR) and its progeny in Europe. Winston Churchill famously championed the latter, sending senior British lawyers and politicians to play a major role in drafting the European Convention on Human Rights (ECHR). It was Clem Atlee's Labour Government which ratified it in 1953 and Harold Wilson's government which introduced the right of individuals to take cases to the European Court of Human Rights (ECtHR) in 1966. But UK residents still couldn't claim these basic rights at home and Britain was one of the world's only democracies without a written constitution or rights charter. After years of all–party debate about the merits, or otherwise, of adopting a domestic bill of rights based on the ECHR, Tony Blair's government passed the Human Rights Act (HRA) in 1998, retaining parliamentary sovereignty by preventing courts from overturning Acts of Parliament. On this basis senior members of the Conservative opposition wished the measure well.

Of course, all governments can resent the requirement to comply with a set of legally enforceable common standards – whether national or international – which are intended to stymie their freedom to act when the norms of liberal democracies are threatened, from free speech to privacy, protest to inhuman treatment. That is to be expected. But in past times the UK, like most democracies around the world, voluntarily chose to accept some checks on absolute sovereignty to enable states to hold each other to account through a combination of national and international courts, committees, and commissions. This multilateral system is sometimes labelled the rules–based international order.

The origin of Britain's commitment to human rights is often traced to the medieval *Magna Carta*. Whilst most of this ancient document is no longer in force, and little of it has any bearing on modern life, it has acted as a symbol of Britain's commitment to the rule of law; the principle that the same law applies equally to everyone, and that state authority must be governed by law rather than the arbitrary exercise of power. But it was the brutality

and genocidal slaughter of World War Two that drove a concerted attempt to inject a set of shared ethical principles into *international* law, deemed necessary for the stability of all societies everywhere and for global peace and justice. So ingrained was the sense that Britain had been at the forefront of this ambition that prime drafter Eleanor Roosevelt dubbed the iconic UDHR 'A Magna Carta for all Humanity'

So when the HRA came into force in 2000 it was seen as the next vital step in this tradition. A new human rights zeitgeist appeared to be spreading across the globe, typified by the series of 'velvet revolutions' in central and eastern Europe. One by one they ratified the ECHR as a manifestation of their commitment to democracy and human rights, often incorporating these rights into domestic law. As the first UK Bill of Rights based on the same norms, with the ECtHR continuing to act as a back stop, the HRA complemented these developments. This was prior to governments of any political persuasion routinely consulting opinion polls before determining their support for human rights. Alongside the HRA, the Joint Committee on Human Rights and the Equality and Human Rights Commission were established by the then Labour government to promote compliance with human rights standards, within parliament and among wider public authorities.

Although, in the early days, the headlines were sometimes dominated by suspects and offenders claiming rights under the HRA – often unsuccessfully – there are now so many people whose everyday lives have benefited from claims that were made achievable by the Act, that it is no longer possible to keep track of them all. Among many thousands are victims of crime and survivors of rape and domestic violence seeking justice, families demanding answers about how their loved ones died, members of the armed forces issued with inadequate equipment, people with mental and physical disabilities seeking procedural fairness and dignified treatment as well as residents of care homes. Some of these citizens' gains were achieved without the courts, not least during the pandemic when NGOs like Care Rights UK used the HRA to successfully challenge the disproportionate isolation of elderly people and the government revised its guidance to stress the need for individual assessments to meet the right to a family life under the HRA.

Over the last 14 years there has been an astonishing reversal of direction, leading the UK to become a credible leader in a global retreat from domestic and international human rights norms.

Yet over the last 14 years there has been an astonishing reversal of direction, leading the UK to become a credible leader in a global retreat from domestic and international human rights norms. At times the hostility to the treaties that past governments have willingly ratified, including the Refugee Convention and the ECHR, has been so vociferous, and the breaches of their terms so flagrant, that doubt has been cast over the UK's once enviable reputation for complying with the rule of law, threatening the UK's international standing and its reliability as a trading partner.

This reverse process was kicked off under the coalition government, despite resistance from Lib Dem ministers. This culminated in the 2014 policy document, Protecting Human

Rights, which was aimed at doing precisely the opposite, as former Conservative Attorney General, Dominic Grieve, pointed out. Acting as a decoy from growing demands to quit the EU, the rhetoric against both the HRA and the ECHR was ratcheted up. Distorted claims that the former tied the government's hands from protecting citizens from crime were challenged by the former DPP, Keir Starmer, who demonstrated that it was in fact the victims of crime who had been major beneficiaries of the HRA.

Each new administration over the last 14 years has brought renewed threats to overturn the HRA or withdraw from the ECHR. Dominic Raab's misleadingly–named and legally confusing Bill of Rights to replace the HRA was eventually withdrawn after failing to persuade MPs of all parties that it would either add new rights or prevent the reinstatement of the pre–HRA era, where far more violations were found by the Strasbourg court than now.

In 2023 only one UK case was lost at the ECtHR! Yet post–Brexit, the ECHR has become the stand–in target for dissatisfied Eurosceptics, despite being unconnected to the EU. The Safety of Rwanda (Asylum and Immigration) Act, and the Illegal Migration Act 2023 which preceded it, which ousts sections of domestic and international human rights law completely, allows ministers to decide if they will comply with emergency Rule 39 injunctions from the ECtHR that temporarily halt deportations before an applicant's case is heard. This potential breach of international law, established by ECHR case law, sets a dangerous precedent, as Gordon Brown recently warned. Using the same powers, in 2022 the ECtHR ordered Russia to ensure that a death penalty sentence was not carried out on two Britons captured fighting for Ukraine.

The UK's newfound ambivalence – sometimes open hostility – towards international human rights law comes at a time of widely recognised strain on the future of liberal democracies everywhere.

The former prime minister, Rishi Sunak, repeatedly flagged the possibility of withdrawing from the ECHR entirely, notwithstanding the catastrophic implications for the both the Good Friday Agreement and the UK–EU Trade and Cooperation Agreement governing our post–Brexit relationship with the EU. This is a threat that potentially put the UK in the company of only Belarus and Russia, an astonishing set of bedfellows.

The UK's newfound ambivalence – sometimes open hostility – towards international human rights law comes at a time of widely recognised strain on the future of liberal democracies everywhere. Democratic states cannot flourish in a climate of international lawlessness and domestic uncertainty about the human rights norms which are fundamental to the citizen's stake in the democratic process.

The post–war vision of a world where governments respect the humanitarian laws of war, and the human rights norms of peace, has not faced such peril in 75 years. Amid ever–growing accusations of double standards and hypocrisy from the global South, Britain cannot hope to retain any credible moral authority to condemn flagrant human rights

abuses, such as those we have witnessed in Gaza or Ukraine, while repeatedly claiming that international human rights norms from 'a foreign court' do not apply to the UK.

We are at a watershed moment. Will the new Labour government work with other democracies to spearhead a global reset on human rights compliance and promotion, or will it join a growing number of populist regimes for whom international protections are no more than a last century encumbrance? This is a moment for the UK to head out of the wilderness and recover the capacity to lead.

Francesca Klug OBE, *visiting professor at LSE Human Rights, previously assisted in devising the model for incorporating the European Convention on Human Rights into UK law, and was a member of the government task force overseeing implementation of the Human Rights Act.*

Does the Human Rights Act matter?

Craig Mathieson's Supreme Court test case successfully challenged the rules governing disability allowances. Here he discusses the vital importance of the Human Rights Act.

We are lucky to live in a country where no one believes they will have their human rights violated – or at least we used to. The Universal Declaration of Human Rights 1948, European Convention on Human Rights 1955, UN Convention on the Rights of the Child 1989, UN Convention on the Rights of Disabled Persons 1989, and the Human Rights Act 1998 guided my work as a social worker. I was educated and trained to help children and families, keeping them safe while respecting their individual dignity and self-determination, and balancing those against what was desired by the state and what may have been convenient to me or my colleagues.

I grew up believing in the inherent goodness of my country as represented by my government. I found the courts to be fair and measured, granting outcomes that mostly reflected the best interests of the most vulnerable. I saw ministers resign when caught out or in conflict with their principles, corruption punished and treason unthinkable. I believed that honest people would be treated fairly, and that the state would always play by the rules. Then I had a disabled child and woke up. You see, sick, disabled children do not vote, their families most often split up, and neither they, nor those who love them will ever be kingmakers in an election.

In 1990, the then Conservative government introduced, by secondary legislation, measures for sick, disabled children which saw Disability Living Allowance payments suspended if they had been a hospital in-patient for 84 days. The government justified the Disability Living Allowance Regulations 1990 on the basis that a child under-16 would have 'sufficient time to adjust to living in hospital' – but later admitted this was known to be false a year before the measures were brought in. For 25 years, and despite successive ministers' acknowledgement that the rule was probably wrong, the regulations were upheld by the government and their tribunals. In 2015, at the culmination of a very painful legal case that lasted four and a half years, the Supreme Court found that not only did the regulations breach my son Cameron's human rights, but that the ministers concerned had never established whether the opinions on which they based their policies had been true in the first place.

We relied upon arguments in public law (the judicial review principles of Illegality, Fairness, Rationality and Proportionality), the Human Rights Act (Article 14, Article 1 Protocol 1, and Article 8 of the European Convention), and international law (UN Conventions on

the Rights of Children and the Convention on Disabled Persons). We won unanimously on every point. In reaching its judgement, the Supreme Court relied on international conventions, letting the government know that international law is not just an opportunity for good optics, but that having taken applause for the headline you must live up to it!

None of this would have been possible without legal aid. We were represented pro bono by both our solicitor and barristers through the First Tier Tribunal, with some exceptional legal aid in the Upper Tribunal, Court of Appeal and Supreme Court. Legal representation does not come cheap, neither do the court fees at that level. The funny thing about those with the money to be able to afford such access to justice is that they are often not the ones having their rights violated.

> **"I grew up believing in the inherent goodness of my country as represented by my government. I found the courts to be fair and measured, granting outcomes that mostly reflected the best interests of the most vulnerable… Then I had a disabled child and woke up.**

We found our son's legal aid certificate being withdrawn unlawfully whenever we were granted a court date, and only reinstated at the last moment after the threat of judicial review, with an insincere apology along the lines of 'Well it turns out that he was entitled to legal aid after all. Sorry, old chap, hope it hasn't affected the preparation of your case at all!'

Yet, thanks to cuts brought in by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) a case such as Cameron's is unlikely to ever be heard again, because the threshold for the public interest test has been made insurmountable. In our case they argued that because we had lost in all the lower courts, we had no prospect of success at the Supreme Court – only for the Supreme Court to rule that both the Upper Tribunal and Court of Appeal should have ruled in our favour, not the government's.

In the years since, I have watched Westminster's confected circus around rights for the people they like and in the circumstances that suit them with growing anger. I also observed the former government's disdain for judicial review, human rights laws and international conventions that prevent them from mistreating other human beings with impunity, and just how vocal its ministers were about these 'issues'.

We don't need a British bill of rights, we already have one, it's called the Human Rights Act 1998. Every single review, no matter how constrained, has told ministers how good it is. The only failure associated with it is that they have sabotaged it by destroying access to justice and undermining the rule of law. The truth is that LASPO 2012 and the systematic hollowing out of legal aid and our justice system, made all that moot in the first place: There is no need to get rid of the Human Rights Act if you have already made it nearly impossible for anyone to use it.

My experience over the years has shown me that for any democracy to be worthy of the name it must adhere to certain basic principles. There must be a constitution establishing limits to

government's powers and circumstances in which they are to be used. There must also be a bill of rights, like the Human Rights Act, to protect the people from their government, either in case of deliberate malfeasance, or the simple brutality of bureaucracy.

The founding fathers in America believed that checks and balances, when operated honourably, make it essential for new laws to be made by consensus, winning the arguments and persuading others to support the proposals, not by executive decree. Yet in the UK, A.V Dicey referred to the near fusion of the executive and legislative branches as the 'efficient secret of the British Constitution.'

> **The bones of our democracy are strong… but they must be nurtured and protected.**

I would argue that the situation we face today is far worse than this, because the executive dominates the legislature in parliament and no longer pays even the scantest lip service to the conventions that honourable people used to obey. We have endured years of sanctimony about the 'sovereignty of Parliament' when those most ardent voices only seek to further strengthen their own power through patronage and corruption. To deal with this, and to stop it from happening again, we need a clear single document called the constitution. When a constitution and bill of rights that truly serve our people is at the heart of who we are and how we are governed, then so many other problems would become simpler to resolve. It not only becomes obvious that everyone in our country should have a safe, affordable home to live in, healthcare, and education, but also that we should treat others across the world with the same respect and consideration that we give and expect at home, that humans live in societies, not economies.

This constitution could make proper distinctions between how different laws can be changed, with public administration at one end and the strongest protections at the other for constitutional arrangements, currently dealt with by flimsy conventions and reliance on principle, and the Human Rights Act as the country's bill of rights.

The Human Rights Act does not just matter, it is essential. We live in a time when precisely the same type of small people that Churchill commissioned the European Convention on Human Rights to protect us from once again cast long shadows. This should tell us that we are either at the beginning of a new day, or the end of an old one. Look at the world, warnings are sounding everywhere, and we should conclude that the dawn is still a long way off.

The bones of our democracy are strong, all the proper ingredients already exist, as does the fundamental nature of our people, but they must be nurtured and protected.

Craig Mathieson's *son Cameron was diagnosed with cystic fibrosis and Duchenne muscular dystrophy and passed away in 2012. Craig's fight for his son's rights to the Disability Living Allowance led to his successful legal challenge to government policy using the Human Rights Act.*

Treated like 'robots'

TUC Anti–Racism Officer **Riz Hussain** explains the harsh and insecure world of the gig economy and suggests solutions to improve workers' rights.

The number of people working for gig economy platforms has nearly tripled in England and Wales over the past five years. In 2021 three in 20 working adults – or 4.4 million people – worked via gig economy platforms in England and Wales at least once a week, compared to around one in 20 in 2016.

The term 'platform labour' covers a wide range of gig economy jobs found via a platform (a website or app) – for example Uber, JustEat, Deliveroo or Gorillas – and accessed using a laptop, smartphone or other internet–connected device.

The overwhelming majority of workers use platform work to supplement other forms of income, and are increasingly likely to patch together a living from multiple different sources. This leads to exceptionally long working days. A large proportion of the gig economy workforce live in poverty and face exploitation. The transactional and remote structures mean workers are much more atomised – a significant challenge for organising on collective issues, the bedrock of the trade union movement.

We know the gig economy increases the insecurity that comes with these employment models, contributing to broader inequality across society. We are increasingly concerned about the gigification of other sectors, like teaching, social care and hospitality, which could force more workers into precarious working conditions.

Whether they have to log onto an app for a shift or be told by an agency whether they are working from one week to the next, workers in the gig economy are connected by a lack of decent money, rights, protection and control over their time.

Wages are being driven down and the workers' lack of power means that fewer of them are collectivising in the workplace to demand that their basic rights and protections are met. Increasingly, evidence shows that insecure work is compounding labour market discrimination against Black and minority ethnic (BME) workers, women, young workers, and those living in poorer areas of the UK.

These groups are at the sharp end, working in jobs based on temporary or insecure contracts through agency work. This type of job market has created a huge power imbalance between workers and employers.

Zero–hours contracts are the most egregious example of one–sided flexibility at work where the employer has absolute power over whether and when to offer shifts. Some argue that the flexibility is a benefit to workers, but we know that most BME workers on variable–hours contracts would prefer to work fixed hours.

Ali is 28 years old and a delivery driver for a large online retailer in the East Midlands. When he started working for the company he wasn't given any choice about the type of contract he worked on. He was told that this style of contract would give him flexibility and freedom.

Ali was told that he would have the ability to decide his own hours but was never really told about the negative side of the working arrangement. 'That's the way they bring you inside and get you to accept the job. When you fall sick or anything like that, you are not paid for it. There are so many downsides to being on a zero–hours contract that it's not really beneficial for us. If I had the option, I would be on a standard contract. You know your job is secure, you know your pay is secure. You don't just wake up the next morning without a job. You can plan that way.'

Huge swathes of the workforce suffer from the effects of insecure employment. Zero–hours contract workers have great uncertainty over their working hours meaning they often don't know when their next shift will be or if they will be able to pay their bills.

Many working in the platform economy are told they are self–employed. This means they miss out on basic work rights such as sick pay and parental leave. What's more, they are left to struggle financially – 1.88 million self–employed workers earn less than two thirds of the median wage, which is just under £10.

Many migrant workers come as seasonal workers, brought to Britain to work as fruit and vegetable pickers. They are charged recruitment fees that often leave them poorer than before they came to the UK.

BME workers are disproportionately affected by the growth of insecure work. Since 2011, the proportion of the working population in insecure work grew from 10.7 percent to 11.8 percent. BME workers have borne the brunt of this increase. In the last 11 years the proportion of BME workers in insecure employment has risen from 12.2 percent to 17.8 percent.

Trade unions have led the campaign against insecure work by negotiating agreements which bring workers back into permanent and secure jobs. The trade unions GMB and Unite have been making efforts for a number of years to organise workers in Amazon warehouses across the UK. A wave of unprecedented strikes were organised last year in Amazon's Coventry site in their fight for a minimum hourly pay rate of £15 and union rights.

This action shed light on the harsh realities faced by warehouse workers, revealing a disturbing narrative of dehumanisation and exploitation within the tech giant's operations. Workers said the company thought of them as 'robots' and that they are subject to gruelling work conditions and constant surveillance.

Despite efforts to automate tasks, human labour remains essential, leading to an environment where employees are pushed to their limits to fulfill orders efficiently. This relentless pace takes a toll on workers' physical and mental well–being, with reports of injuries and burnout alarmingly common.

> **To fight against exploitation and deal with the deeply rooted racism in our labour market, we urgently need to tackle insecure work and exploitation of workers through platform jobs. We also need policies that encourage good jobs with fair pay and hours.**

The lack of job security exacerbates the situation. Workers describe feeling disposable, with little regard for their contributions or concerns. Surveillance measures, including constant monitoring of productivity and strict time constraints, only serve to reinforce this sense of alienation and devaluation.

Industrial action emerges as a powerful expression of dissent against these oppressive conditions. It represents a collective effort by workers to demand better treatment, fair wages, and improved working conditions. Despite the risks involved, workers are driven by a shared determination to challenge the status quo and assert their collective power.

A government serious about addressing racial inequality must focus on fixing the disparities and unfairness in our job market.

Current rules make it tough for trade unions to organise and stand up for workers. This means many people who could use our help are shut out.

To fight against exploitation and deal with the deeply rooted racism in our labour market, we urgently need to tackle insecure work and exploitation of workers through platform jobs. We also need policies that encourage good jobs with fair pay and hours.

We need the government to take serious and coordinated action to fix insecure work and deal with racism in the job market, especially for BME workers who face discrimination and exploitation the most.

These steps are necessary for the government to make sure that companies play fair and treat everyone equally.

The government should make race equality requirements for the supply of goods and services in the public sector. Companies that don't follow these rules shouldn't get government contracts.

Zero–hours contracts should be banned. Workers should have contracts that reflect their regular hours, and they should be compensated if shifts are cancelled suddenly.

We need to change the rules so that all workers, no matter what, get the same rights from day one.

That includes getting paid if they're made redundant, being protected from being fired unfairly, having time off for family reasons, getting sick pay, and being able to work flexible hours. Employment laws need to be updated to stop this two–tiered workforce. Trade union legislation that makes it hard for workers to strike or for unions to help workers in jobs like the gig economy should be repealed. We need unions recognised in all workplaces to represent workers through collective bargaining agreements that are sector–specific and sector–wide.

Employers should have to report on their ethnicity pay gap data and go further than just looking at pay differences. Employers should also keep track of who gets hired and promoted, who gets training opportunities, and who gets in trouble at work. Working with unions on plans to fix any problems and checking progress every year is important.

Taking these steps can help spot and fix unfairness in hiring, promotions, pay, training, and how workers are treated when they do something wrong. These changes won't solve all the problems of racism at work or end insecure jobs, but they're a big step towards making sure everyone has a fair job with fair pay.

For this to happen, the government must take action. If we don't act, inequality at work – in particular racial inequality – will only get worse.

Riz Hussain, *the Anti-Racism Officer at the Trade Union Congress (TUC), led the TUC Anti-Racism Taskforce and currently focuses on race equality, migrant justice, and anti-fascism. He works closely with TUC affiliates to build a stronger trade union movement on anti-racism and anti-fascism.*

Human rights in schools

Teacher **Kim Hurd** says human rights education teaches tolerance and respect and combats discrimination.

I am a teacher with 15 years' experience, working in schools in Reading, Leicester, and London. Almost a decade ago, I joined Amnesty International's Teacher Advisory Group to support their Human Rights Education (HRE) team to develop new resources and courses. I have also made several lesson resources for the organisation on women's rights and gender equality.

The teachers' standards set out the minimum level of practice for teachers and trainee teachers to achieve to get qualified teacher status.[1] Within this document teachers must treat pupils with dignity and promote mutual respect. We must safeguard pupils' well-being, show tolerance of and respect for the rights of others and not undermine fundamental values, including democracy, the rule of law and individual liberty. HRE would, in my view, be the most effective way to meet these obligations.

Often I find that students have a very limited understanding of human rights as it is largely missing from the curriculum and so is not taught consistently in schools. This is a global issue.

HRE focuses on promoting equality in human dignity, empowering people to know, claim and defend their rights. It promotes participation in decision-making and the peaceful resolution of conflicts. In 1993 the World Conference on Human Rights[2] declared HRE as 'essential for the promotion and achievement of stable and harmonious relations among communities and for fostering mutual understanding, tolerance and peace'. HRE encourages empathy, inclusion, and non-discrimination; principles which are crucial for building and advancing societies. It is also a human right to learn about human rights with the UN Declaration on Human Rights Education and Training stating that 'everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and should have access to human rights education and training'.

Yet often I find that students have a very limited understanding of human rights as it is largely missing from the curriculum and so is not taught consistently in schools. This is a global issue. Nancy Flowers of the Human Rights Educators Network USA recognises that although human rights are frequently mentioned, 'human rights literacy' is not widespread, with most people receiving no human rights education at all. As a

result, knowledge of human rights is usually through personal experience, social media, or independent research which doesn't always lead to positive outcomes. A long-term strategy is required to tackle this.

Within my school I have experienced HRE being effective in promoting tolerance. Recently, lessons were being disrupted by teenage boys supporting Andrew Tate and his misogynistic views regarding women. Through targeted PSE lessons and classroom conversations the boys began to question their beliefs – realising they were advocating for depriving people of rights that all humans should have. This shows the power of HRE to empower students to reframe arguments and form new opinions based on human rights values and principles. By encouraging education from early years and engaging young people on topics such as human rights, we lower the risk of them falling into simplistic often problematic views as explanations for societal issues. These views can sometimes express themselves as authoritarian, racist or misogynistic. The lawyer Muhammed Saqlain Arshad argues young people need to understand equality and know their rights, to understand both how they should be treated, and how they should treat others. Teaching these topics creates a safe place for students to explore, discuss, challenge, and form their own opinions and values which are skills that they need to be informed global citizens.

“Within my school, children and young people are passionate about human rights… They want to digest and unpick the nuance around human rights, yet currently the curriculum has limited opportunity for this.

HRE must be taught from an early age, as this is when attitudes, values, and beliefs are shaped. In many ways HRE always has been taught since then; telling children not to be mean and that 'sharing is caring'. We devise schemes learning to celebrate diversity, learning about different cultures in the humanities, and reading books about a wide variety of people. Despite this, teachers are often unaware what HRE is. We need to formalise HRE delivery and reclaim the term 'Human Rights' to mean what it should – treating others in a fair and just way.

Within my school, children and young people are passionate about human rights, and will frequently want to discuss conscription, Gaza, abortion, or Black Lives Matter in lessons. They want to make the world better and will often use their voice to challenge perceived injustice. They want to digest and unpick the nuance around human rights, yet currently the curriculum has limited opportunity for this. Human rights education provides a framework within which students can analyse complex debates and make sense of the wider world. HRE simultaneously engages students, promotes higher order thinking skills, and delivers wider skills for life.

In my school each year we run a 'What matters to you' survey and students consistently express concerns about food bank usage, homelessness, and war. I have seen young people litter pick plastic from their local environment, collect medicines to send to Ukraine and provide essentials to the local homeless populations. Students will also challenge sanctions

they feel are unfair, with new rules which are perceived as unjust resulting in threats of strikes, protests, and petitions. As you can see, the passion to put things right is clear but students need guidance on how to do this constructively. As teachers we can support them by giving them the skills to take action for human rights and understand how to affect change. This will reap benefits in later life promoting positive engagement with society, reducing apathy and disillusionment, and creating citizens who can be change-makers.

While HRE can benefit students, unfortunately policy regarding HRE is often vague, resulting in uncertainty in how to deliver it amongst teachers. When even the term 'human rights' can feel politically charged, teachers often respond by just shutting down conversations. Guidance is required. Recently, I called a student out for making a homophobic comment, he was adamant it was his religious right to say this. I felt lucky to teach in a supportive school, where several staff took time to explain to the student why this was inappropriate. But even in a supportive school I was concerned – where does my right to tackle homophobia end and his right to religious freedom start? Subjects like this are delicate and teachers need training, through both Initial Teacher Training and In-service training, to gain the confidence needed to discuss human rights in their classrooms when issues arise.

I have seen first-hand that many schools foster human rights cultures, with staff modelling rights respecting behaviours, behaviour policies prioritising praise and students being listened to through student voice. But often human rights are not explicitly named, and students don't know their rights and how to claim them. Schools which are not rights respecting, which seem unfair, fall apart quickly. Even the strictest of headteachers agree that respect, consistency and fairness are key to any behaviour policy and yet often we do not explicitly talk about human rights principles or teach HRE. This is a missed opportunity to support students to gain the skills to live in a diverse society. Being a school with HRE at its core also improves teacher recruitment and retention – as respected teachers feel empowered and happier in their roles and are more likely to stay.

Ofsted recently reported our school was an inclusive school, where pupils knew they were deeply cared for within a vibrant community, where pupils listen to one another respectfully. What is that if not teaching 'for' human rights? Designing policies which put the individual at the heart of the school has resulted in students flourishing. The final part of human rights education – teaching 'for' human rights is possibly the most challenging. If students have knowledge about human rights, combined with understanding, respect and tolerance for difference, they are able 'to understand other people: what motivates them, how they work, how to work cooperatively with them'[3]. HRE forms the basis on which students can tackle prejudice and improve relationships in their own lives. Students want to be tolerant and respectful, and informed students make better choices. I once launched a whole school programme educating students about a range of offensive terms – upon hearing the meanings of these words they didn't want to use them anymore. Stonewall recommends educating students about discriminatory language before issuing sanctions, and this successfully changed their behaviour.

After teaching HRE for several years I have seen many success stories, the debate club student who became Wales's youngest mayor, and the first non-binary one; the girl who served on advocacy panels giving a speech in the House of Lords. And beneath this there are hundreds of students who listened before judging, felt included in spaces they previously didn't or showed respect to others. Through human rights education we can produce individuals with the ability to compile an argument and the confidence and motivation to affect change, defend justice and equal opportunities, and create a tolerant society. The Equality and Human Rights commission reports that once HRE is introduced, schools experience improved attainment and attendance; behaviour and well-being of students improve; and there is a reduction in discriminatory attitudes.

As former UN Secretary General Kofi Annan said HRE goes beyond a single lesson, 'It is a process to equip people with the tools they need to live lives of security and dignity' – and this is why it is needed explicitly in the curriculum. After all, isn't that the whole point of education?

Kim Hurd *has taught science for over 15 years in schools in Leicester, London and Reading. In 2016 she joined Amnesty's teacher programme, becoming part of the Teaching Advisory Group and producing human rights education resources on gender justice.*

Endnotes

1 https://www.gov.uk/government/publications/teachers-standards

2 https://www.coe.int/en/web/compass/introducing-human-rights-education

3 Watson and Greer 1983

Gender-based violence and homelessness

Gabriela Quevedo from Latin American Women's Aid (LAWA) explains the challenges and opportunities for supporting Black and minoritised survivors of violence – who struggle to obtain support and justice from public authorities.

In the UK, one in four women experience gender-based violence. Domestic abuse accounted for 16.2 per cent of all crimes recorded by the police in the year ending March 2023.

Women who face additional forms of inequality due to race, ethnicity, social class, religion, sexuality, gender identity, disability, mental health, or age are at greater risk of experiencing violence and often struggle to receive appropriate support and justice.

Migrant, Black and minoritised women face additional barriers to seeking help, including lack of knowledge of their rights, language proficiency or their immigration status. The UK government ratified the Istanbul Convention in 2022 (on Preventing and Combating Violence Against Women and Domestic Violence) – but it reserved Article 59 which obliges states to protect migrant women including by providing them with an independent residence permit when their status is dependent on the perpetrators. Despite evidence of the risks faced by migrant women, the government continues to refuse to afford them equal protection.

Organisations like Latin American Women's Aid (LAWA) provide critical support for these women. LAWA operates the only refuges by and for the Latin American community in the UK and Europe. 'By and for' refers to specialist services designed and delivered by the communities they aim to serve. In the context of violence against women and girls (VAWG), these services bring vital expertise to address these issues effectively.

Leaving an abusive relationship is challenging for anyone, but for migrant and minoritised women, it marks the beginning of a long journey through bureaucratic obstacles, gatekeeping, and misunderstanding. VAWG is both a cause and a consequence of gender inequality. To address it means to confront broader structural inequalities, including economic disparity, health inequity, and the hostile immigration environment.

LAWA's focus on influencing housing policy comes through the Women Against Homelessness and Abuse (WAHA) initiative[1], which has operated for six years to address the intersecting issues of poverty, homelessness, and gender-based violence experienced by migrant, Black and minoritised women. The initiative aims to create pathways to secure safe and stable homes while promoting positive changes in housing policy and practice through ongoing learning, community dialogue, and collaboration with local authorities.

Unfortunately, accessing support can be another source of trauma and re-victimisation. LAWA's research indicates that Black, migrant and minoritised survivors face complex structural barriers when seeking safe accommodation, leading to high risks of homelessness and re-victimisation at various stages, from leaving an abusive relationship to finding long-term stability.

These barriers are rooted in systemic failures and discrimination by public authorities such as the police, social services, and local councils. Re-victimisation manifests through poor welfare and housing provisions, as well as structural sexism, exacerbated by intersecting oppressions related to race, immigration status, language barriers, class, and disability.

LAWA's primary goal is to improve responses from statutory services to meet the housing needs of survivors better, and create a more supportive environment for those escaping gender-based violence.

The UK's approach to homelessness is governed by legislation, including the Housing Act 1996, the Homelessness Act 2002, and the Homelessness Reduction Act 2017. Part 7 of the Housing Act 1996 sets out the duties of local authorities when processing homelessness applications, including criteria for determining homelessness and providing accommodation.

The Domestic Abuse Act 2021 expanded the definition of domestic abuse to include not just physical violence but also emotional, psychological, and financial abuse. It grants survivors automatic priority for homelessness assistance and removes the requirement for vulnerability assessments. It also places duties on local authorities to establish Domestic Abuse Local Partnership Boards, assess the need for accommodation-based domestic abuse support, and develop a strategy to address this need.

Despite these positive changes, the Domestic Abuse Act has gaps. It lacks a gendered approach, fails to fully address the additional systemic barriers faced by women, particularly migrant women, and does not explicitly use the term 'refuge' though the statutory guidance does include it. Furthermore, technically speaking the act does not require local authorities to provide domestic abuse victims with accommodation, but it does indicate an obligation to implement needs assessments geared towards further reforming the support systems available to survivors.

Local authorities have a prevention duty to help people who are threatened with homelessness within 56 days, and a relief duty to help those already homeless to secure accommodation.

In summary, while recent legislative changes have improved the framework for supporting survivors of domestic abuse and homelessness, significant gaps remain. These include a lack of comprehensive protection for migrant women and an inadequate emphasis on providing accommodation for domestic abuse victims.

The housing crisis creates barriers for women seeking support after experiencing domestic violence. Women's experiences of homelessness often differ from men's – they are more

likely to face 'hidden homelessness' such as couch-surfing, rather than being visibly homeless on the streets. Many homeless women or those at risk of homelessness have faced gender-based violence, and women fleeing such violence are at high risk of becoming homeless. Although the Domestic Abuse Act 2021 imposes a duty on local authorities to provide safe accommodation for survivors, the lack of social housing creates significant challenges for vulnerable women seeking stable accommodation.

The inadequacies of the housing benefit system, such as caps on Local Housing Allowance, make it difficult for women to afford private rental housing. This has led to calls for the Department of Work and Pensions to re-assess these caps to align with private rented accommodation costs.

Other factors exacerbating the problem include the decrease in supply of temporary accommodation as private landlords seek more profitable tenants, and staff shortages within local authority housing teams. High staff turnover and lack of training – connected to underfunding and inadequate regulation – contribute to the deterioration in the quality of temporary accommodation.

"Accessing support can be another source of trauma and re-victimisation… Black, migrant and minoritised survivors face complex barriers when seeking safe accommodation, leading to high risks of homelessness and re-victimisation…

In practice, housing officers at local councils are often ill-equipped to support women from minoritised communities. The communication between survivors and these officers is sporadic and frequently affected by disbelief and prejudice, leading to re-traumatisation for survivors and increased workloads for our caseworkers. This inconsistent contact with statutory agencies makes it difficult for women to rebuild their lives after experiencing domestic abuse.

Between June 2020 and June 2023, the WAHA initiative managed 193 complex cases. Most of these referrals (63 percent) were related to gender-based violence, with homelessness (46 percent) and threatened homelessness (16 percent) being common issues. Additionally, 31 percent of referrals were due to problems with temporary accommodation facilities, including long stays in unsuitable temporary accommodation, landlord harassment or eviction procedures.

Unfortunately, many survivors are refused support until legal action is threatened. Several forms of 'gatekeeping' practices contribute to this problem, such as:

- Failure to apply the statutory definition of domestic abuse.
- Unlawfully high evidence thresholds that create an environment of disbelief and distrust.
- Inappropriate instructions for survivors to stay in or leave their borough.
- Local Housing Teams preventing survivors from making valid homeless applications.
- Local Housing Teams failing to meet the duty owed to survivors already assessed as homeless.

- Wrongful assessment of survivors' homeless status due to a lack of understanding of gender-based violence.
- Social Services staff providing incorrect guidance in immigration matters.
- Racism and discrimination encountered while dealing with local authorities.
- Severe negligence in ensuring survivors are housed in safe, healthy, and hygienic conditions.
- Poor or non-existent communication between housing officers and survivors, causing re-traumatisation.
- Police malpractice due to a lack of information in community languages and a culture of disbelieving survivors.

To address these challenges, the police should provide accessible information to Black and minoritised survivors about referral pathways, including direct referrals to Black and minoritised services and refuges. Additionally, a trauma-informed approach and cultural competency training, including professional interpreting services, are critical to improve support for survivors.

With a new UK government in place there is an opportunity for political parties to commit to a 'comprehensive whole-society approach' to addressing VAWG focusing on the most marginalised. A coalition of over 70 organisations, including LAWA, published a joint manifesto[2] in September 2023 outlining their priorities for the next government.

LAWA's key recommendations include:

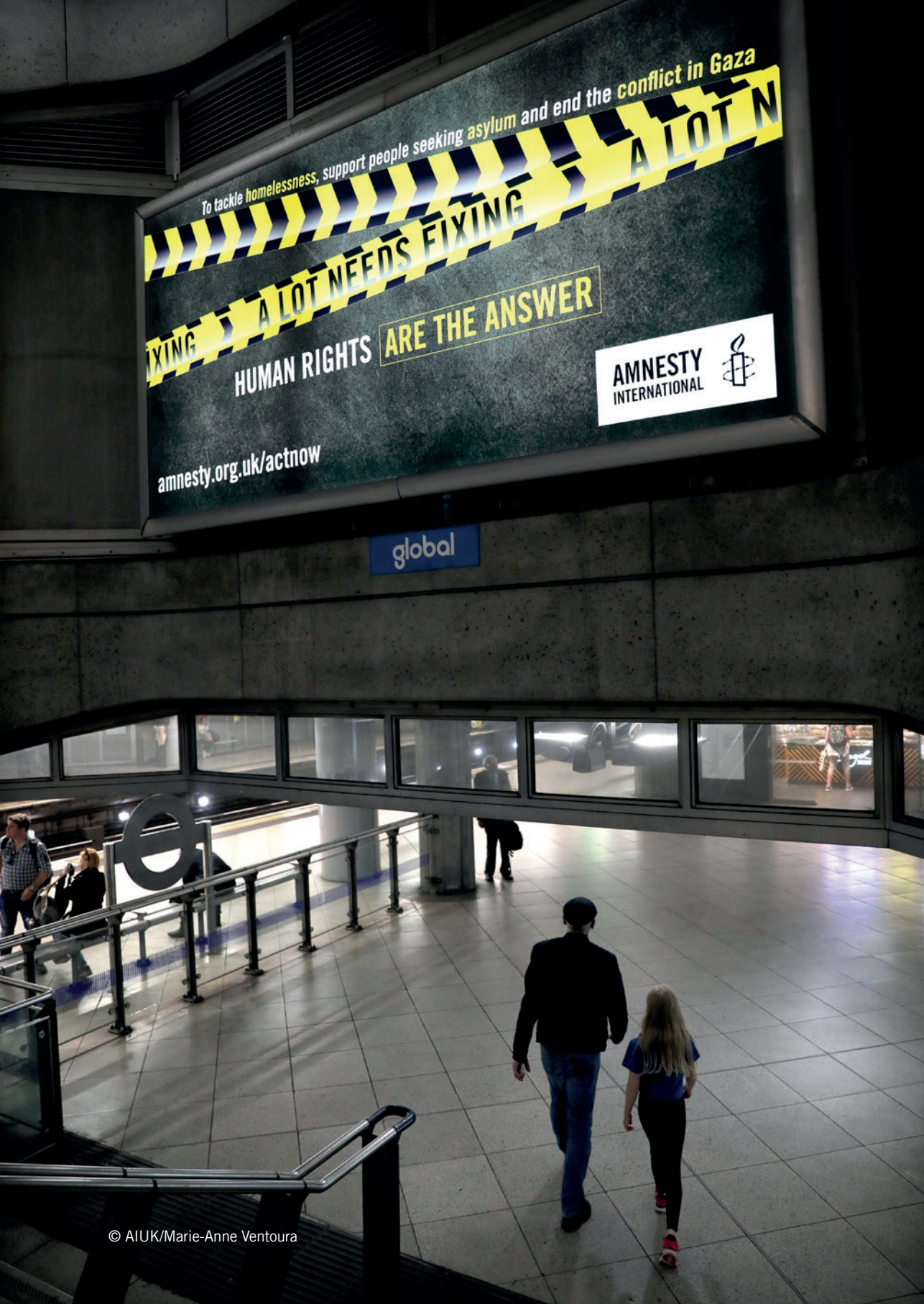
1. Work with local authorities to ensure housing officers understand women's legal entitlements, preventing gatekeeping practices that require legal threats to act.
2. Allocate resources to develop second-stage/move-on accommodation schemes for survivors to facilitate smoother transitions after leaving abusive situations.
3. Implement Shelter's recommendation to deliver 3.1 million more social homes within 20 years.
4. Local authorities must ensure proper assessments and stop demanding local connections from abuse survivors, while meeting safe accommodation standards.
5. Local authorities should create referral pathways with 'by and for' services to support minoritised survivors who may fear interacting with the police or council due to immigration concerns.
6. Local authorities must ensure their temporary accommodation stock meets minimum standards of suitability.

Gabriela Quevedo *is a prominent contributor to public affairs and policy change work in the Violence Against Women and Girls (VAWG) sector in the UK, as well as leading community engagement and institutional learning strategies at Latin American Women's Aid (LAWA).*

Endnotes

1 https://lawadv.org.uk/women-against-homelessness-and-abuse/

2 https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/2023/09/Full-VAWG-Manifesto-150923.pdf



Human rights are the solution

Essays from leading experts explore themes ranging from mass atrocities around the world to unprecedented levels of homelessness in the UK. This thought-provoking collection is curated by **Labour Campaign for Human Rights** and **Amnesty International UK**.

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