

Socialist Lawyer



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defending
**HUMAN
RIGHTS
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INSIDE: Housing in East Jerusalem: international legal mission report

The 2011 riots sentencing: unfair, inconsistent and unequal?

The fight for land rights in Mexico; the end of the Basque ETA armed struggle

Austerity cuts; job seekers allowance challenge; news, reviews and more

'Their cuts

Are austerity measures inevitable? **Paul Heron** thinks not...

The election of the Con-Dem Coalition Government approximately 20 months ago has heralded a major austerity programme. Over that period 250,000 public sector jobs have disappeared. More than 100,000 jobs have been lost in local authorities alone across England.

Many workers have reluctantly taken payoffs; some because they are older and close to retirement, others because they lack the confidence in their own union leaderships on a local or national basis in the battle against the Con-Dem plans.

There does not seem an end in sight to the jobs and services slaughter. Reporting in *The Guardian* Patrick Burler outlines in detail the impact of the cuts being made by local authorities. These statistics provide an alarming picture of the extent of the cuts from all areas of the UK – North East Lincolnshire council: £30 million cuts over four years, £9 million frontloaded in 2011-12. Jobs cut: 200. Dorset County Council: £55 million of cuts over three years, with £31 million frontloaded into 2011-12. Jobs lost: 500. Some libraries will be closed. Western Isles Council: £5.1m cuts for 2011-12, with so far 60 staff leaving through voluntary redundancy or early retirement.

Sadly these cuts were carried out by all of the political parties and in some cases the Labour-led council being the worst offenders – for instance in Newham council in east London £100 million worth of cuts was agreed. Even the Green Party in Brighton has failed to step up to the mark and has introduced a budget which implements cuts to jobs and services.

Where the cuts fall

Despite the claims by Osborne and Cameron that 'we are all in this together' nothing could be further from the truth. Carl Emmerson, the Acting Director of The Institute of Fiscal Studies, has been reported as expressing the IFS view that: 'The tax and benefit changes are regressive rather than progressive across most of the income distribution. And when we add in the new measures announced yesterday this is, unsurprisingly, reinforced.' He added, 'Our analysis continues to show that, with the notable exception of the richest two per cent, the tax and benefit components of the fiscal consolidation are, overall, being implemented in a regressive way.'

At the same time that this is happening it has been business as usual in the City of London and the boardrooms of many companies. Only as recently as October 2011, Stephen Foley in *The Independent* reported

that, '[t]he directors of Britain's largest companies were last night condemned as "elite greedy pigs" for pocketing a 49 per cent pay rise in the past year while average workers failed even to keep up with inflation.'

This at a time when youth unemployment reached over one million.

While the national government has set the tone for austerity, local government has been a willing accomplice. Sadly, some of the most severe cuts have affected some of the poorest areas.

The Independent reported on 8th January 2012 that 'Slipier city areas of Liverpool and Manchester and parts of London including Hackney will be worse hit with spending reductions of 8.9 per cent. However richer parts of the country such as Surrey, Buckinghamshire and Wiltshire fare much better with cuts of less than 1 per cent.'

The Guardian on 14th February 2011 reported that 'Labour councils shed 50% more jobs than Tory areas'. The cuts have hit Labour-run councils hardest. Yet instead of organising a fightback they have been happy to carry out the cuts sometimes justifying them by stating these are 'their cuts not ours.'

...and if you know your history

There is a history of Labour councils fighting back. ▶

not ours'?



Picture: Jess Hogg / Reporting for Justice



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► One of the sharpest areas of combat between socialists and national government has been over local government cuts, finance and the surcharging of councillors who dare to disobey. These battles have shown that until the 1980s Labour councils were prepared to do battle to protect workers and the most vulnerable from savage cuts.

Surcharge and disqualification of elected councillors goes back to 1834 when the Poor Law Amendment Act 1834 introduced the infamous new poor law. It introduced the right of government auditors to disallow items of expenditure and to order the guardians to repay the amount. The law was extended during the 19th century and came to include elected councillors when local government councils were formed. It has been the cause of some notorious court cases, of which the Poplar case in the 1920s is one of the most famous.

When the Poplar council had the audacity to pay its labour force in excess of union rates in May 1923 the District Auditor threatened to surcharge the councillors to the tune of £17,000 for the financial year ending March 1922. The Poplar councillors believed they were acting within the law. They argued that section 52 of the Metropolis Management Act 1855 allowed them the right to pay their employees as they saw fit. The Auditor disagreed and, under pressure from local businesses, decided to enforce a surcharge on Lansbury and the socialist Labour councillors of Poplar. It eventually led to 30 councillors, including six women, one of whom was pregnant, being sent to prison indefinitely for contempt of court for refusing a court order to remit the monies.

The Poplar councillors' actions created a watershed, acting as they did in the best traditions of the labour movement. Despite their anxieties they were able and willing to risk their freedom to fight for the working class. The councillors became more popular than ever and their socialist policies were supported across the borough.

In 1973, 11 Labour councillors from Clay Cross were surcharged for refusing to implement the Housing Finance Act 1972. The Act forced councils to increase rents on council housing. The councillors refused to do this. The District Auditor ordered the 11 Labour Party councillors to pay a surcharge of £635 each in January 1973, finding them 'guilty of negligence and misconduct'

1980s: they say cut back, two councils fight back

The principle of surcharge and disqualification from office was not abandoned by the Tories through the Thatcher years. Indeed it was built into the Local Government Finance Act 1982. Section 19 dealt with the powers of the Auditor and the courts in relation to items of account which are 'contrary to the law.' Section 20 relates to the failure to bring sums to account and to losses due to 'wilful misconduct.'

The Act empowered an official, usually the Auditor, to act against councillors where he or she considers that a council has acted outside the law or with wilful misconduct – but was framed in such a way that councils are held to be guilty until they prove themselves innocent.

The issues of surcharge and disqualification of elected councillors came again to the fore in the mid 1980s. In the initial stages, 16 Labour councils representing millions of people in the industrial heartlands from North Tyneside, Leicester, Sheffield, Manchester and the London areas agreed to fight the cuts in central government funding. After the sabre rattling all of them backed down except Liverpool and Lambeth.

The two councils battled on. They understood that the cuts in central government funding would affect jobs and services at a time of severe recession. In the case of Liverpool it would mean the ending of the council house building programme, as well as the job creation programme in the council.

The two councils were left isolated by the central party. Eventually they were thrown out of office. Lambeth councillors were surcharged £126,947 in total and thrown out of office. The 47 Liverpool councillors were surcharged £333,000 and thrown out of office, with many being expelled from the Labour Party itself.

While ultimately the battle itself was unsuccessful, it is important to note that had all the 14 councils stood together they could have forced the Government to backtrack. Liverpool City Council in 1984 had in fact wrung concessions of £20 million out of the then Minister, Patrick Jenkins.

Some on the left have sought to rubbish the stand of Lambeth and in particular the Liverpool councillors. Yet, they forget that the stand taken by these councillors was in the tradition of the Labour movement.

2011 – a new test

In March 2011 many councils were faced with very stark choices. Do they cut the youth service? Do they cut elderly services? Frontline staff? They were being asked by the millionaire Chancellor, George Osborne, to make massive cuts to public services as part of the austerity budget, a price needed to be paid for bailing out the banking system. Yet while city pay rose by 49 per cent, it was public services that needed to pay the price.

In facing up to the cuts not one Labour council hinted at a campaign or promised to put up a fight against the cuts. The most common arguments used to justify this

position were the threat of being surcharged and secondly 'What choice do we have?'

The power of surcharge was identified by the Nolan Commission as wrong. It also saw that it was being used as a political weapon. As a result when the Local Government Act 2000 was introduced surcharging was abolished. This is set out in Part V of the Act.

The Local Government Act 2000 could be utilised to assist those afraid of being thrown out of office. The Act states that if you do not 'have regard' to financial advice given by the council's chief finance officer and fail to fully explain failing to follow his/her financial advice, according to their statutory duty, a councillor could be referred to the standards board for breach of that individual council's code of conduct – which potentially could bar councillors for a period of time.

It would, in this writer's view, be very difficult for an unelected finance officer to bar a group of councillors, particularly if they have been elected as part a mass campaign with a mandate not to make cuts.

Even if anti-cuts councillors were removed from office for a period, any such decision would be open to a judicial review. This would not rule out others stepping up to replace them on the same anti-cuts programme.

What of the possibility that the Government will send in commissioners to run the council? Despite the threats of the Thatcher government at the time and despite setting a deficit budget, this never happened during the Liverpool and Lambeth council campaigns. Even the 'Iron Lady' recognised this would have provoked a massive response. While it has happened in Doncaster most recently this was in relation to their failing social services.

The need for a fight back

The Local Government Act 2000 excludes the surcharging of councillors so long as councillors do not act in their own interests, and they can justify the actions they take – that could take the form of refusing to carry out cuts, setting a needs budget and a deficit budget.

In the next few months councils will be setting their budgets. Sadly more cuts are pending. A dialogue needs to be had in the labour and trade union movement. Labour councillors need to be challenged not only to campaign against the cuts more boldly, but to set a needs budget. Critically, they should not fear the notion that they risk a surcharge. It is important for socialists to contact their councillors and raise the issue of the need for a fightback. The surcharging and barring from office is no longer the threat it was.

A question that faces socialists, trade unionists, and community campaigners is what now? If we cannot rely on the Labour Party to represent us, in my opinion the crucial tasks ahead will be to ensure that not only is a campaign of mass resistance organised through the trade unions, but crucially that a new party of the working class is built to be a voice in the council chamber and Parliament to speak for us, and to bring to these 'esteemed' venues the ideas of socialism.

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Picture: Jess Hurd / reportdigital.co.uk