

Why barristers walked out of court

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For the first time in 800 years, barristers walked out of court in protest against Government legal aid cuts.

***Dexter Dias QC**, Human Rights barrister at Garden Court Chambers, explains why.*

Today, for the first time in 800 years, lawyers publicly protested by staging a half-day walkout. Why? The short answer is that barristers walked out of court this morning to prevent the Government walking all over public justice.



The Bar's protest – the first in a legal profession that stretches back to the [13th century](#) – is about the Coalition cuts to legal aid. It is a protest about an attack on legal funding of such severity that it simultaneously threatens access to justice, the quality of the representation, and the proper defence of people's rights.

Let me emphasise: these cuts do not affect the quality of justice enjoyed by those so well off that they can pay for their own lawyers. You won't find many transnational corporations, Premiership footballers or celebrity chefs suffering from these cuts. But the rights' protection of many ordinary citizens and particularly the disadvantaged, the marginalised, the weak and the vulnerable, will be seriously damaged. How has this come about? How could the Government even contemplate such a socially damaging step?

Governmental disinformation

First, a little background for those who have not followed the ongoing dispute between the Government and the legal profession. Justice Secretary Chris Grayling is intending to cut [30 per cent](#) from the annual legal aid budget of £2 billion. This is despite the fact that a reduction of [40 per cent](#) has already been inflicted since 1997. These further cuts are of a nature and extent that, in the words of Nigel Lithman QC, Chair of the Criminal Bar Association, they will 'cripple' criminal litigation.



If true, this is a matter of tremendous national importance. And recognising this, the Government has embarked on a cynical campaign of [obscuring the facts](#) and obfuscating the issues. Of course, when the social issue is so serious we must ask: is it possible that this Administration would stoop as low as this?

In fact, the Government's tactic has been to produce a vast quantity of disinformation about the level of legal aid fees. It's had to. The reason is that the true facts refute its argument. In doing this, it's adopted the strategy it has used elsewhere when seeking to impose policies that are deeply damaging to the social fabric. What it does is create spectres. That old trick. Find scapegoats; deflect and distract by finding people to demonise.

In welfare, it conjures masses of massively rich welfare 'scroungers'. In [immigration](#), it manufactures foreign hordes itching to invade our green and pleasant land (or who already have). And now in justice, it presents figures about a few completely unrepresentative 'overpaid' lawyers, with the implication that these are the kinds of fees that the 5000 practitioners at the criminal Bar are receiving.

In truth, however, and as the [CBA reports](#), [60 per cent](#) of the profession now face the prospect of working for less than £20 per day. Proper reading of the Government's own [statistics](#) reveals that many junior barristers are on an annual take-home pay of less than £10,000 for working 60-70 hour weeks. So these cuts to legal aid are not in

actuality about overpaid legal professionals. But if not that, then what?

Widening the justice gap

Several people have tweeted me – from Macclesfield to Melbourne – with the entirely understandable point that cuts to legal aid do not prevent lawyers representing ‘the poor’ (as they’ve called them) for free. This is an absolutely essential question that must be met head on.

The fact is that increasing the amount of pro bono work the Bar does is not a solution but a red herring. This is the case for two reasons. Firstly, the Bar already performs a very significant amount of pro bono work. Aside from taking such cases on an individual basis as they cross our desks, as many of my colleagues do, the Bar has a dedicated [Pro Bono Unit](#), greatly admired throughout the world. It seeks to fill *some* of the gaps that already exist in legal provision. But with a tireless staff of seven, it is a patch, not a panacea.

Then secondly, there is no doubt that with the sustained attack on public funding those gaps will get worse. Much worse. And here is the crux of the matter: the shape of the justice system these cuts will produce. Do we or do we not want an institution like the criminal justice system, where the citizen’s freedom and fundamental rights are at stake, to be properly funded by the community? Should we increase the justice gap between rich and poor?

The Government – unsurprisingly – has little difficulty with this. And yet again, like welfare claimants, migrants and those suffering from food poverty, it has chosen its targets with meticulous care. Lawyers recognise that they are often unloved. Equally, they are acutely aware that the people they represent are frequently unpopular, with little power or voice. Yet in a properly functioning democracy, the quality of justice you enjoy should not be a function of your bank balance. In this, publicly funded lawyers are indispensable.

They ask the questions vested power does not want asked. They are there to represent the people no one wants to represent. They provide a bulwark and a bastion against intrusive and inappropriate state action. Historically they have never been valued by governments that do not want their activities scrutinised. Which is precisely why lawyers are so crucial. This is the essential democratic function they serve.

So ultimately this dispute is about a choice. Whether we make our society more or less equal. The Government will never acknowledge that simple fact because their shameful attack on public justice has the inevitable consequence of widening the gap between rich and poor. Only the constitutionally ignorant could fail to appreciate that.

Driven by ideology

Let me end by saying one last thing. Administrations that damage those whose job it is to challenge malicious or misguided state action are not stupid. Governments that destroy defence lawyers are not dim. They are dangerous. And like an unreliable witness trapped in the witness-box, Grayling gave the game away when he gave evidence to the Parliamentary Justice Committee. There he admitted that rather than simply being an inevitable consequence of the financial situation, the cuts were also ‘ideological’. We have seen all too clearly the ideology he subscribes to in welfare and immigration policies; in the proliferation of [food poverty and food banks](#). We’ve seen how reduced rights and increased inequality are acceptable collateral damage to this Government’s ideological bent.

Thus we must not view these public justice cuts in isolation. They form part of a pattern. They are the next scene in a landscape of barren social provision and battered social safety nets. Is this what we want? For the sake of our community’s weak and vulnerable, the marginalised and the maligned – in fact the groups the Government has already systematically attacked – we must not let them prevail.

Like me, most of my colleagues became lawyers to protect people’s rights and fight for fairer access to justice. Today, barristers walked out of court for the first time in 800 years to defend those cherished ideals.

Note: This article gives the views of the author, and not the position of the British Politics and Policy blog, nor of the

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