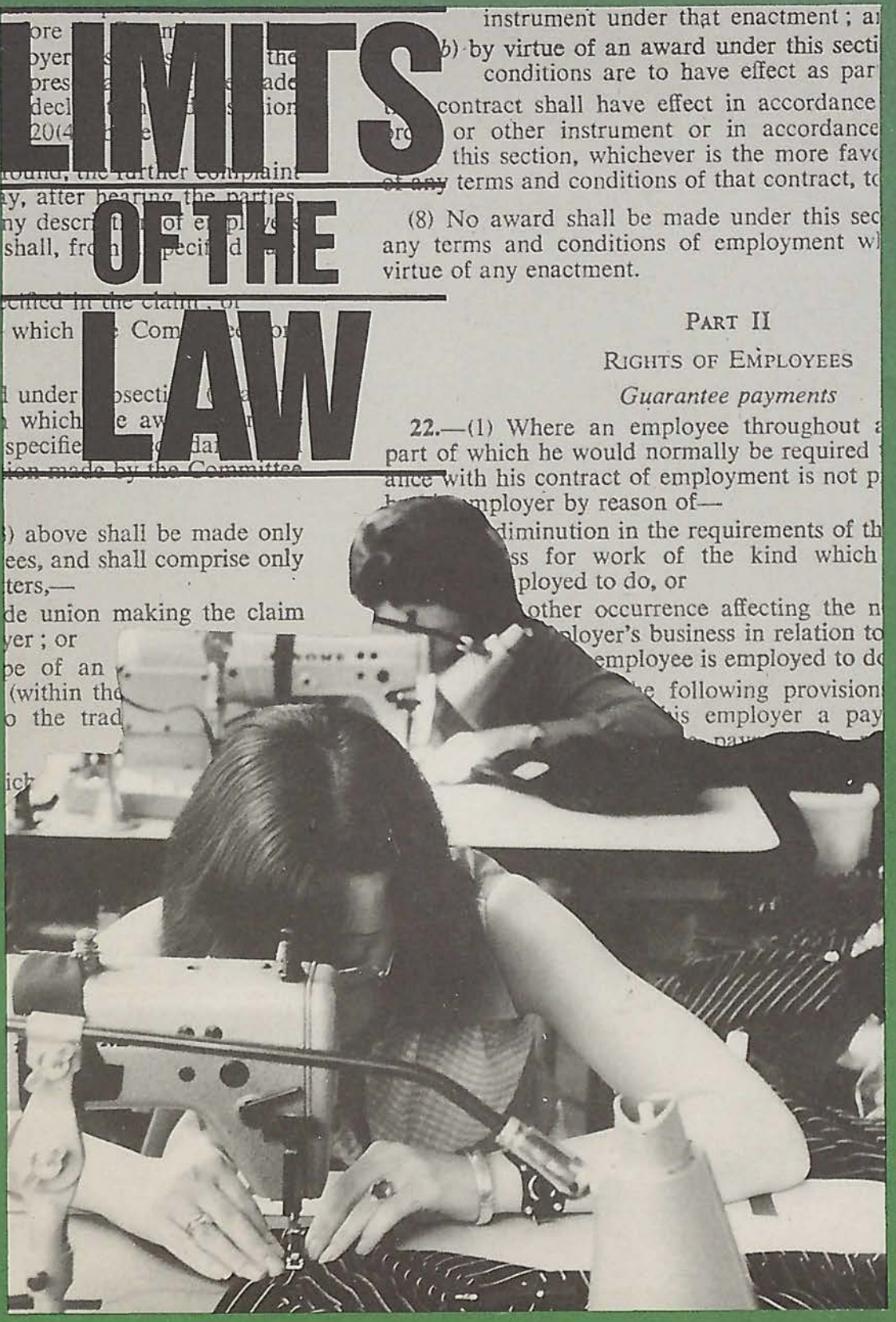
LIMITS OF THE LAW



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PART II

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Introduction

Over the last ten years, centres offering information and advice have sprung up in the working-class districts of every major British city and in many smaller towns: Welfare Rights Centres, Housing Action Centres, Advice Centres, Information and Opinion Centres and Law Centres. Some just provide information, others take up individual cases, arguing with officials and advocating at tribunals. Some have been spawned by pressure groups like the Child Poverty Action Group and Shelter and many have been funded by Urban Aid. They are often linked to community organisations, to Community Projects or to the Settlements. Frequently they run on small budgets, making use of volunteers and are located in decaying short-life shop fronts. More recently the idea has been taken up by local authorities too. They have chosen a different style: concrete and plate glass, thick pile carpets and musak. There are now council-run housing advice centres, 'consumer shops' and legal services.

When the Community Development Project was set up by the Home Office in 1969, each of the twelve local projects began to establish their own advice centres. The freedom and resources offered to CDP has allowed the projects to explore a whole range of ways in which local people can use technical skills as they struggle to gain control over some of the issues that face them.

Some centres, as in Southwark, Liverpool and Cleator Moor, were controlled by specially constituted committees of local people; others remained an integral part of the wider CDP programme. In Coventry and Benwell, Birmingham and Batley, CDP resources were used to enable existing local organisations already providing advice to employ full-time workers. Oldham and North Tyneside established a network of very local neighbourhood centres. Coventry employed a community lawyer who covered the whole city. The two rural projects, Cleator Moor and Upper Afan, produced schemes for mobile centres visiting different parts of the area on different days of the week. Projects varied too in the use they made of the 'hard' skills. Six projects employed lawyers. Four, Benwell, Coventry, Liverpool and Birmingham, established specific legal facilities; two more, Canning Town and Southwark, had qualified lawyers on their staffs. Centres also made use of the expertise, and legal specialisation, of planners, public health inspectors, architects, and social workers. In contrast some centres were exclusively 'resident run' with the information workers recruited from the local population and trained on the job. Many projects tried more than one approach. Liverpool, for example, sponsored a resident-run information centre, a law centre in conjunction with the local law society, an aggressive welfare rights programme within an adult education scheme and a multi-service centre linking most of the statutory services under one roof.

Despite these differences, the experience of all twelve projects has been the same. The longer they opened and the more staff they employed, the busier they became. When energy was concentrated on one particular area, say social security problems or problems of low pay, a centre gained a local reputation for this work so more and more callers and groups turned to it for help. Each project knows of areas of work that remain urgent but unexplored because of limited resources. But knowledge of the law and the time and resources to follow up issues has not proved the magic passport to securing justice. Project filing cabinets are filled with examples of systematic maltreatment and abuse and denial of rights for which there is no straightforward legal redress.

The report is written by a group drawn from the Benwell, Birmingham, North Tyneside and Canning Town projects and from the Information Unit but it is based on the experience of all the twelve Community Development Projects. Added together, the many different issues they have handled provide a general picture of the 'law's' impact in working-class districts. The report looks at the laws through which the state makes its intervention in working-class areas – the laws which information centres spend nearly all their time trying to put into action on behalf of the people who come to them for help. We do not describe the law as it is supposed to work, but instead, what happens in practice; not just the legislation but the combined effects of legislation, court procedures, court decisions and administrative practice.

We show how people are powerless, despite the law, to protect themselves against decisions which can shatter their lives. Important decisions which close down factories and throw people out of work, escape the law. The movement of capital away from every decaying industrial area is beyond the control of those who have to bear the consequences. The formal legal rights offered in compensation

afterwards – redundancy pay, unfair dismissal claims and so on, are marginal. The first part of the report takes example after example from the CDP work to expose this conflict between legal rights and the economic reality they conceal.

The second part analyses the state administrative machinery which is expanding in working class areas. Instead of merely setting the rules of conflict between employer and employee, or between those who provide houses and those who live in them, the state acts as an intermediary body. The Welfare State has also generated a huge body of law of its own. Every time government officials decide who should get a council house or how much dole they should get they are making a legal judgement. There are now two 'legal' systems, first the traditional courts and lawyer-operated system, the second the administrative system with its own machineries and its own 'justice'. People in CDP areas come up against the second much more than the first. The administrative system shares much of the bias of the legal system without its elaborate ceremonies. In it we see all the inequalities, exposed in a way which the legal system long ago learnt to cover up.

We conclude by reviewing the tactics developed by centres to take up the issues brought to them. We recognise that in nearly every case the pursuit of purely legalistic methods has a very limited effect. Successful action requires the recognition that legal decisions are made in a political and economic context. The issues are essentially political ones. It is the reality behind the law which must be challenged.

Part one
The protection of the law

1 Destroying the local economy

Ten days before Christmas 1975, the management of the Standard Telephone and Cable Company, part of the multinational ITT empire, announced the closure of its North Woolwich factory. STC was one of the area's biggest employers with nearly 2,000 jobs. The unions sprang into action. A mass meeting of the workers was called and an action committee was formed to fight the decision. Faced with the company's carefully laid plans, the unions – even with considerable local support and the efforts of the local MP – got nowhere and the closure plans went through. Nine months later shop stewards got no support in a rearguard fight to put off the closure date, as workers feared losing their agreed redundancy payments. By the middle of 1977, the machines will all have been removed and the factory will be derelict. There are few alternative jobs for the redundant workers in the surrounding area.

For STC management the closure makes sense. Demand for the products produced at North Woolwich was changing, new technology was being introduced into telecommunications and the company had decided to invest in and expand its factory in South Wales, taking advantage of the lower wage rates and government grants. They had only the minimal legal obligations to their North Woolwich workers which such a large profitable company could meet without difficulty.

Eighteen months before that Christmas announcement an economic consultant commissioned by CDP had produced an analysis of STC's prospects predicting serious contraction in the North Woolwich operations. His work gave valuable information to the local shop stewards, but was denied and denounced by the STC management. A year later and only six months before the closure announcement, STC cut its workforce, transferring some operations to Greenwich, south of the Thames, and making several hundred workers redundant. Newham Council and the MP however, were both given assurances that cable manufacture would continue on the North Woolwich site 'in the indefinite future'. A television company that took up the story was threatened with legal action for comparing the company's public statements with the growing body of evidence pointing to closure. In the end, of course, the reality was exactly what had been so vehemently denied and the reassurances given to workers and the local community were shown to be worthless.

The legal system places no obligations on a company to consider the effects that the closure of a factory will have on its workforce or on the local area. Upper Clyde Shipbuilders, Triumph Meriden and other closures have demonstrated to workers that the only way to fight company decisions is through a combination of direct action and political pressure.

This examination of the workings of the law begins by looking at the absence of any protection against the movement of capital for the people affected. The dominant influence on each CDP area, has been the withdrawal of industrial capital from the factories. STC is not an isolated example. Vickers in Newcastle, Swan Hunter and Spillers in North Tyneside, Tate and Lyle in Liverpool and Canning Town, British Leyland in Birmingham are all withdrawing capital from these areas, in order to reinvest more profitably elsewhere, abandoning local workers to lower paid work or to the dole queue. The process is not confined to large well known firms. In each area, the whole economic structure has crumbled.

Capitalist development requires manufacturers to abandon the working communities upon which they have founded their profits. The search for higher returns involves continually expanding, rationalising and concentrating production. To do this as cheaply as possible and undermine the resistance of settled workers it is easier to close down or run down sites in the older urban areas and build new factories based on new technologies and newly assembled workforces on the periphery of the cities, in new towns or abroad where labour is cheap. This process has been documented in local CDP reports, *Aims of Industry?* (Canning Town), *Batley at Work, Jobs in Jeopardy* (Benwell, North Shields, Canning Town, Batley), *Workers on the Scrapheap* (Birmingham), and, in a national report, *The costs of industrial change: Industry the State and the Older Industrial Areas.* These reports show that whatever the state of the national economy – boom or slump – the exodus of capital continues relentlessly.

The cumulative effect of industrial decline is devastating. Often masked by official statistics, the opportunities for work decrease with people travelling further afield to look for employment, better paid jobs vanish, experienced workers are unable to find equivalent posts in similar industries and possibilities for training disappear.

Protecting the worker?

Experience shows that the balance of law and administrative policy under the law has placed no effective brake on the workings of capital and has frustrated working class activity aimed at securing any measure of full employment and social control over industry.

Company law, designed to regulate the relationships between firms and to protect the shareholder has never been concerned with workers' interests. A government spokesman would of course claim that the state has made many attempts to create jobs by directing the location of factories through New Towns, Regional Policy and so on. In practice such measures have had little impact in offsetting the effects of long term decline. Instead of taking any positive action to plan or direct industry, the state resorts to a system of incentives. The effect has been to attract capital intensive industry offering a few relatively low paid jobs in light industry or warehousing. The state's interest is to promote industrial reorganisation. In practice this means increasing the rate at which capital is withdrawn from working-class areas, intensifying the problems local workers face.

From an early date, the power of the employers in Parliament has ensured that working-class demands were resisted. When working-class pressures succeed in wringing concessions from Parliament – like the Trades Disputes Act 1906 – the employers rely on the interpretative ability of the judiciary to curtail their effectiveness. And now at the height of institutional Trade Union authority, and with a Labour Government in office, legislation and administrative policy continues to have no significant social effect on the processes causing industrial decline. On the contrary, the positive incentives to industry from the state along with an elaborate apparatus for compensating individual workers has made it easier for capital to restructure on its own terms.

Against a background of uncontrolled capital movement and industrial decline, the rights won for individual workers seem insignificant. From the end of the last century, a number of laws were introduced to compensate individual workers for the actions of their employers. The first laws were concerned with physical injury. Under The Workmen's Compensation Act and the more recent National Insurance and Industrial Injuries schemes, 'relief' was offered to the worker for the injury suffered. It was of no concern to the law that this may have been caused by bad working conditions and the employer was not punished. Since then a whole range of additional legislation has been brought in to cover other 'abuses' like unfair dismissal, discrimination against women, and redundancy (Redundancy Payments Act 1965, Equal Pay Act 1970, Industrial Relations Act 1971, Trade Union and Labour Relations Act 1974, Employment Protection Act 1975, Sex Discrimination Act 1975).

While offering some relief to the worker, these, and other advances have been won at a cost. In many respects legislation such as the Redundancy Payments Act 1965 aids the movement of capital more surely than it protects the discarded worker. The small cash entitlement that accompanies the sacking is of little use to workers in areas where the supply of comparable jobs had dried up. However, for the departing company, the parting 'gift', (and even the terminology – redundant not sacked) defers anger past the point where it could be channeled into effective resistance. More and more the state has come to rely on this kind of tactic, buying off or institutionalising conflict rather than directly repressing it. While increasingly repressive interpretations of the picketing laws, for example, continue to remind us that the basic role of the state has not changed since the days of the Combination Acts, the state has recently embraced a more subtle strategy.

The price of recent government intervention has been the development of administrative and cooptive machineries that have taken conflicts out of the workplace, where the workers strength lies, into industrial tribunals while at the same time increasingly involving the trade union movement in their administration. The power of the industrial tribunal has been extended even further by the recent legislation and now plays a key role in the settlement of a wide range of disputes from equal pay to unfair dismissal. The tribunal is often portrayed as being more objective than a court with one of its three members drawn from the employers, one nominated by the trades unions and the chair taken by a legally qualified person. In practice this proclaimed balance gives a permanent two to one bias against the workers' side reflecting much the same class bias as in the courts. The claim to informality is equally suspect. Tribunals follow less mannered procedures than do the courts but the basic requirement to present and argue a case in terms of legislation remainds daunting. The likelihood that employers will build up experience and send specialists to tribunals removes any advantage that informality might bring. The tribunal system translates every dispute into an individual problem, preventing discussion of collective issues. Disputes are taken away from the shop floor limiting the power of workers to protect and defend their rights in a way they can control.

At the same time as extending the jurisdiction of the industrial tribunal government has consolidated the 'arbitration and settlement' provisions by extending the services of the Advisory Conciliation and Arbitration Service (ACAS) (Employment Protection Act 1975) which will endeavour to effect a compromise or settlement in any matter referred to the tribunal. Again outside administrative bodies are diverting the struggle away from the workplace, eroding the capacity of workers to employ traditional collective forms of action to defend and protect employment. ACAS has also been encouraged by Parliament to assume the role of industrial troubleshooter. It has powers to intervene, to arbitrate and to effect conciliation in industrial disputes. Like the 'Official Solicitor' in the Pentonville five dockers dispute in 1973, ACAS can act as a safety valve by buying time which will inevitably, like the 'cooling off period' in earlier legislation, work to the benefit of the employer.

Resisting decline

It is not surprising then that workers have found that there is no legal machinery open to them to challenge the exodus of industrial capital from their neighbourhoods. There is no protection against the consequent factory closures, redundancies and cuts in income. CDP centres have been able to help in the preparation and presentation of cases before the industrial tribunal and to assist workers in their efforts to obtain their entitlements through the National Insurance and Supplementary Benefit systems once the axe had fallen. But to meet local demands to resist the collapse of the local economy, CDPs have had to find ways of contributing not only to a legal, but to a political struggle.

Workers in companies like Vickers, Tate and Lyle and STC, have a long history of trade union organisation reflected in the relatively high wages these companies have been made to pay. Whilst trade unionists in these factories have a long experience of bargaining over wages and conditions, the problem of resisting closure and preserving jobs is a relatively recent one. Yet, as we have seen, this is clearly crucial not only for the individual workers affected, but for the local workforce as a whole.

Workers threatened with the rundown or closure of their factory face many problems in trying to organise resistance. First because they are often denied access to information or deliberately misled, they often have little advance warning. Without adequate information, it is difficult to know what demands to make, as these will often depend on how profitable the company is, whether they are transferring capital to other plants, other subsidiaries or other countries, and so on. Second, plants are sometimes closed down dramatically, but often the rundown is slow. It is much more difficult to organise resistance to 'natural wastage' than to redundancy. Often, too, companies try to make bargains with the unions: 'agree to a cut back in jobs, and we will increase wages'. Third, redundancy pay, is very alluring. After twenty years of very hard work in a demanding and unpleasant job, the redundancy lump sum may seem like an attractive option. Where companies have plants or subsidiaries in different areas, management often tries to play one off against the other. Tate and Lyle for instance have created tensions between workers at at their Canning Town, Liverpool and Greenock plants by circulating options each one of which favoured one plant at the expense of another.

Without combined organisation with workers at the other end of the country and without knowing what management is up to workers become demoralised and easy to defeat. Information is essential.

Providing information

When the Industry Bill was drawn up in 1975, it included quite extensive provisions covering the disclosure of information. Companies could be required to disclose information on items such as acquisition or disposal of fixed capital assets, capital expenditure and sales of industrial property. In addition it was to be the *duty* of the Minister for Industry to require a company to pass on information to each relevant trade union. By the time the Bill became law, most of these provisions had been so watered down as to render them useless to trade unionists. It is a salutory lesson. A law conceived in the interests of trade unionists has been so adapted by a Labour Government under pressure from industry as to render it useless, even perhaps to facilitate the interests of business. By June 1975, *The Economist* was able to comment:

> The Prime Minister . . . has made good most of the promises he made to the spokesmen of industry in private by limiting the disclosure powers the Bill would give Ministers, writing into the Bill a commitment to the voluntary principle for most cases and inserting major safeguards for those instances in which compulsory powers are used . . . Industry may still not love the Bill . . . but with flexibility in operation it may even produce some of that much wanted regeneration of British Industry.

The history of the Industry Act shows just how strongly industry will resist any moves which might strengthen the position of workers in their battle to gain some influence over capital.

Although the law limits the availability of company information, and companies are notoriously reluctant to release it, with time and effort it is possible to collect a wide range of information which may be useful to trade unions. While the problems are enormous and the resources of CDP centres relatively limited, CDP teams have attempted to give assistance to local trade unionists in an attempt to overcome some of these problems.

Information can be pieced from Companies' House records and other sources. People who know about economics and business methods can employ their skills to predict company decisions, as in the case of STC discussed earlier. CDP teams have done a lot of work of this kind. The North Tyneside Project published a report on the fifty biggest local companies, and the Cleator Moor Project is about to publish a similar document. Some projects have done extensive work on particular firms like STC or Tate & Lyle, of key importance in their areas. The CDPs in North Tyneside, Benwell and Birmingham have also helped set up local, independent Trade Union Research Units responsible to the local labour movement, for this purpose.

In addition, the CDP teams have also felt it appropriate that they document the process of decline and the wider implications of the rundown of local factories, in order to bring this to the attention of local people. Projects have put out reports to show what is happening to industry locally and why. This kind of local intervention is important because it provides the basis for debate about the causes of local problems and raises questions about action and organisation.

Some CDP Centres have given support to groups of local workers. They have been particularly concerned to support the link up of trade unionists within the area, and with their equivalents in other plants owned by the same

company. Projects have therefore given their support to local action committees consisting of local trade union and tenants representatives and to combine committees, linking workers in factories in different areas owned by the same company.

CDP efforts to place physical and intellectual resources into the hands of local trade unionists have been modest. Behind each joint report there has been much discussion and often suspicion from trade unionists of the motives of the projects. We believe that our work in this field has demonstrated that the sheer lack of resources often prevents anti-social company decisions being challenged. Resources must be found from within the labour movement to enable co-ordinated monitoring of industrial change to take place under trade union direction, if resistance to capital withdrawal is to be mobilised.

2 Employers beyond the law

As industrial areas build up they develop a hierarchy of workplaces. At the top are found the large factories, household names with strong national and international connections, usually paying the highest wages in the locality. Trade unions are strong and have won the right to negotiate for their members. Next come the small firms competing for labour with the giants. Some of these recognise trade unions, pay agreed rates and observe safety regulations. Many others do not. The profits of these companies depend on taking short cuts both with pay and with safety. At the bottom comes a network of casual work and homework where workers' circumstances can be ruthlessly exploited by an employer without much fear of interference from the state.

The main effect of the withdrawal of capital from the traditional manufacturing industries is to remove the top of the hierarchy, the well organised mobile gaint, leaving the local field to the smaller firm. Of course, some of these leave too, particularly if they supply the larger concern, but others remain, freed from the competition. Lots of other small entrepreneurs move into the area to take advantage of the new situation. High unemployment forces local workers to accept worse conditions and lower pay.

Many of these new employers are involved in such trades as furniture manufacture, the rag trade, sweets or plastics. They usually operate small factories or sweatshops, often relying heavily on homework, very low wages, poor working conditions and have strong anti-union attitudes. They employ the workers who have most difficulty in getting jobs and are traditionally the least well-organised, often women and recent immigrants. Because of the insecurity of their economic position and in the case of immigrants of their economic position and in the case of immigrants the lack of a common language and frequent uncertainty to the harshest forms of exploitation. Although much labour legislation – especially the recent spate of laws described in the last section – is designed to protect just such people, it is our experience that many of the firms employing the weakest sections of the labour force completely disregard these laws. Enforcement depends on knowledge of the procedures and on the bargaining strength of the work force. Where trade unions do not exist, the workers' rights are usually a dead letter in practice. The agencies set up to protect the rights of workers in low wage trades, like the Wages Councils and the Factory Inspectorate, are generally ineffective, and the Arbitration, Conciliation and Advisory Service set up by the Government has so far shown itself reluctant to intervene in disputes where no formal workers' organisation exists.

The stark contrast between reality and the theoretical provision of the law is no accident. It cannot be attributed just to lack of resources to implement legislation. The explanation, is to do with the need to protect profitability at all costs. Whatever the laws say, the implementation by inspectors, tribunals or courts normally contains an implicit recognition that nothing serious must be done to challenge the viaiblity of a business concern. Tribunal decisions rest on technicalities and quite openly refuse to examine the justice of the workers' case. The factory inspectorate for example, stresses co-operation with factory owners and brings few prosecutions. Standards are far from absolute and are adapted to the conditions in a particular factory. Everyone goes through the formal procedures – employers, inspectors and trade union officials – but each one knows that the formalities will come to nothing in the end.

Union strength

CDPs have found that without unionisation it is very difficult to make any progress with homeworkers and other particularly badly paid workers who are not in unions.

> If a general point can be made it is that the large companies pay the higher wages. To some extent at least this seems a reflection of the strength of the union organisation in these companies. There is evidence that in smaller firms where wages are low there is a high degree of turnover in the labour force, which makes union organisation less effective.
> Paisley CDP, *Annual Report 1974*

Although this is not traditionally regarded as part of the role of Information Centres, projects have felt it appropriate and necessary to give assistance wherever possible to unionisation campaigns. Not that this is an easy job. The Canning Town Centre gives this account of the problems involved:

The Trade Unions have frequently been negligent in their responsibility towards immigrant workers, and with few exceptions have failed to organise workers in low wage sector industries. But it has to be recognised that the problems of organisation are formidable. Many workers in these trades regard their employment as a temporary stepping stone to better paid work, (e.g. on the railways or at Fords) and are prepared to put up with inadequate conditions on that basis. Attempts by Trade Unions to recruit members at the factory gates are frequently met by blatant intimidation by management. Workers may be dismissed for accepting leaflets, or asking for higher wages, but without officials who speak the workers' language, the unions can get little idea of what is going on in the factory. When approached by a worker who has been dismissed, they often may be able to secure compensation through an industrial tribunal, but they are unable to guarantee, on an individual basis, the protection against unfair dismissal that the law is intended to provide.
Canning Town Information Centre Report, 1976.

The experience of Canning Town CDP indicates that the effective organisation of low paid workers depends on contacts with workers outside the factory – through tenants organisations, cultural, religious or political associations. Only when a sufficient number of workers are convinced that united action is possible will they join a union and negotiate on a collective basis. Any advances that have been made have been through close co-operation between the appropriate union and the Centre. At every stage it has been important to ensure that workers are informed of their rights and given the fullest possible protection. Even so, there comes a point where workers face the risk of losing their jobs if they are to gain any improvement in wages and conditions. The following example from Canning Town shows how the project tried to respond. It is quoted at length because it shows both the problems and the possibilities:

Spirolynx is a furniture manufacturer which moved to Canning Town from Whitechapel in 1968. It employs 180 workers. A majority of the workers while doing the work of joinerymen, are classified by the company as general labourers and are paid accordingly at the lower rate. Throughout the factory the rate of pay for all grades is substantially below the National Agreed Minimum for the furniture trades, in one instance by 30p an hour. The company has a long history of anti-union activity. In the mid-1960s NUFTO (now FTAT – Furniture Timber and Allied Trades Union) partially organised the factory: several union members were subsequently summarily dismissed. In 1969 the case of 4 workers made redundant by the company came before the Court of Appeal who found in favour of the union. Subsequent attempts by the union to organise outside the factory gates in Canning Town have been met by open intimidation and on four occasions the gates have been locked during the lunch hour to prevent the union making contact with the workers.

The Centre's first contact with the firm was when asked to assist in an appeal to the Supplementary Benefits Tribunal against benefit being cut off because the appellant had refused work at the firm because she did not regard the job as a reasonable offer of employment. The Tribunal accepted her case that the firm's local notoriety as a bad employer, paying low wages and providing poor conditions made the offer unreasonable. The Centre contacted the union for further information, and subsequent publicity through the CDP broadsheet *Inside Out* resulted in a change of policy on the part of the Employment Exchange towards the firm, and an investigation by Newham Careers Office, who decided that school leavers should not be sent to the firm for interview.

During this time a number of agencies (notably Newham Social Services and Newham Rights Centre) received reports of irregularities and complaints concerning the factory. At a meeting between a worker employed by Social Services with responsibility for immigrant communities, Newham Rights Centre and the CDP Centre and the District Organizer of FTAT, a programme was agreed of informing workers of their rights vis a vis their employer, and laying the foundations for organised activity within the factory. Because of the intimidation faced by workers at the factory contact had to be made outside.

It was accepted that the only long term guarantee of individual workers' rights was collective action through the union.

Some thirty visits were made to workers' homes during the evenings, usually accompanied by an interpreter, from which a clear picture was built up of the wages structure, lack of facilities, irregularities concerning holidays and overtime, etc. Most workers were in favour of joining the union, but pointed out the likelihood of dismissal if their membership was known by management. The problem of getting a united front was accentuated by the fragmentation of the workforce. A majority of the workers were Asian, with some West Indians and white women workers and a handful of white male workers, mostly in supervisory positions. But with no common language among the Asian workers (50% speaking Malayallum and Tamil – South Indian languages, and the others divided between Gujarati, Urdu, Hindi and Punjabi) suspicions as to the intentions of other groups were inevitable. After much discussion, and assistance given on related issues (immigration and housing rights, a case of unfair dismissal from another factory) it was decided to call a public meeting of workers from the factory.

At the meeting a nucleus of the union branch was formed. Pamphlets outlining the general rights of workers and the advantages of joining a union were published in six languages. Meetings were arranged outside the factory gates distributing the pamphlets in the early morning, at midday and in the evening. The response of management was again belligerent, on one occasion the police were called, but the mood of the workers changed to one of defiance. Membership of the union increased slowly, though several active workers faced victimization and subsequently left. Though membership of the union is insufficient to form the basis for collective action, there was a considerable improvement in wages – in early 1976 as a result of activity in the previous year, and management are currently belatedly complying with the law in producing contracts of employment.
Canning Town Information Centre Report, 1976

Other projects have taken a similar approach. In Newcastle, workers at the Benwell Project have worked with shop stewards and officials from the Tailor and Garment Workers Union, in an attempt to unionise women workers in small factories. In Batley, local immigrant workers were encouraged to join the Dyers and Bleachers Union. The North Tyneside and Newcastle projects have given active support to local Working Womens' Charter groups in their attempts to help women unionise. The problems dealt with by the projects show that in substantial areas of work, trade unions do not reach workers in desperate need of organisation and that efforts they do make are vigorously resisted by employers. They have found that procedures like those of the Wages Council can be ignored and often used against the workers they were designed to help.

Low pay

By the end of 1975, three million workers' incomes were subject to Wage Council control. Forty three separate Wages Councils covered 460,000 work-places, concerned

mainly with retail distribution, hotels and catering, clothing manufacture, laundries and hairdressing. The basic Wages Council structure was set up in 1909. A legally enforcable minimum wage was laid down for various types of sweated employment together with minimum holiday and working conditions. This basic system remains today, now operated under the Wages Councils Act (1959) supplemented by the Employment Protection Act (1974). Each Wages Council is made up of an equal number of employer and employee representatives with a small number of 'independent' members, usually academics and lawyers.

The machinery for establishing minimum standards of pay is slow and cumbersome particularly during times of high inflation. The Councils meet infrequently. When a new rate of pay has been negotiated and agreed a copy of the proposals is sent to every relevant work-place and employers and workers have an opportunity to lodge objections. Another meeting must then be held to consider the objections. The final Wages Regulation Orders are highly complex and therefore difficult to understand and interpret. The Department of Employment has the responsibility for enforcement through the Wages Inspectorate. Only 7½%-10% of all firms receive routine checks every year and there is substantial evidence that many small firms, often the worst offenders when it comes to underpaying, never get onto the Department's records at all. Complaints are followed up, but these are few; prosecution is rare. When a firm is prosecuted the level of fines is absurdly low – the maximum sum is about £20. Complexity and inadequate policing are not the only problems. The Wages Council system fails almost entirely in its intention to lay down a *minimum* wage. In practice the regulations are used to set maximum wages for key workers with many workers forced to accept much less.

It would be easy to put these failings down to lack of clarity in the law and understaffing in the inspectorate but this ignores the deference of those who make and administer the law to the interests of manufacturers, however exploitative they may be. The law and the procedures to back it up assume the good will of the employer. Access to premises, ease of working both depend on this good will yet there is little evidence to show that it exists. The reality of small paternalistic companies with high labour turnover exercising a real tyranny over their workforces does not lend itself to such civilised supervision.

A survey undertaken in Benwell bore this out. All twelve companies interviewed could not recall a single inspector's visit between them. Nine either stuck rigidly to the legal minimum rate or paid below it. Some were displaying out of date information on wage levels, other firms none at all. Following the survey, the inspectorate was asked to take up a collective complaint from a group of workers, as individuals were frightened of being singled out and losing their jobs. The inspectorate refused on the grounds that it could only take up an individual specific complaint.

People who work for a company in their own homes are even worse off. It is necessary to work long hours and, when overheads are subtracted, the renumeration is minimal. One woman with 2 children in Canning Town for instance, does dressmaking at 15p a skirt. On average she makes 40 skirts a week, but has to subtract £8 for light, heat, power and H.P. on the sewing machine. All in all, her net earnings for a thirty hour week are £5.50. Another woman in similar circumstances was only earning £2.81 a week. Yet most homeworkers are covered by Wages Councils rules and should legally receive far higher wages. The obligation on firms to register outworkers with the local authority contained in the Factory Acts (1937 & 1961) is ignored by most employers, and seldom pursued by the local authorities. Out of the Benwell sample, seven of the twelve firms either used or had used outworkers. None had registered.

Working conditions

In the same way, it is often in the least organised factories that the worst working conditions prevail. Again, without trade union pressure to ensure their enforcement, the legislation covering conditions in factories does not provide adequate protection. Mindful of the employers need to make profit, rigid standards of safety are not enforced largely because of the lack of inspectors and the paltry fines meted out in cases of successful conviction by the Courts. An average fine is only £75.00.

The factory inspector has two roles: advising employers and enforcing standards. In practice these conflict to such an extent that a Chief Inspector in the *Annual Report of the Factory Inspectorate* 1974 candidly admitted that the factory inspectorate has never attempted 'rigorous enforcement of the Factory Acts'. In addition the Factory Inspectorate has never been adequately resourced. In 1974, for instance, there were 594 general inspectors and 143 specialist inspectors, to cover 200,000 premises. Furthermore, the law provides a let-out clause for employers to evade the regulations. Safety standards only have to be enforced 'so far as is reasonably practicable'. The factory inspector is given wide discretion to interpret this. In practice, there are very few prosecutions and employers' pleas of 'insufficient resources' have been accepted by the Inspectorate.

Much of this was recognised by the Committee on Safety and Health at Work which prepared the way for the new 1974 Health and Safety Act. Yet like the Industry Bill, by the time the new law reached the statute book many of its provisions have failed to live up to the needs and expectations of workers. While the new Act brings an additional six million workers under the scope of the safety legislation and lays down some much stronger enforcement procedures, it still includes the 'so far as is reasonably practicable' clause and without an expansion of the inspectorate it is difficult to see how the new enforcement

procedures can be used effectively. Worse, for the first time employers no longer have sole responsibility for safety. Workers' involvement with factory safety committees now implicates them in the employer's negligence. In the hands of many employers this measure may be turned against the workers.

Workers in Britain suffer four deaths and 3000 injuries at work every working day, but another Chief Inspector's comments on the new Act can offer them little comfort.

> In the face of an increasing workload we must of necessity set clear priorities if what we do undertake is not to appear to be chosen arbitrarily and if we are not to dissipate our efforts on desirable but nevertheless relatively unimportant tasks. Setting priorities means saying 'no' to some work . . . It does not mean inspecting every factory however small or removed every four, five or six years irrespective of hazard.
> *Annual Report of the Factory Inspectorate* 1974

Redress from the state

The vast majority of employers operating outside the law are never challenged. Without knowledge of the law or trade union organisation it is very difficult for workers to pursue issues. Nevertheless, projects have attempted to use the tribunal system in a number of such cases. Their experience reveals that tribunals cannot be relied upon to recognise the basic justice of the workers' claim. Even when they do make a favourable judgement, employers often find some way round. Two cases from the North East illustrate some of the problems involved.

At the beginning of 1971, AVP Industries Group set up a new subsidiary in the North-East: Homeworthy Furniture (Northern) Ltd. Another similar subsidiary had already gained notoriety with local workers in Edmonton, North London, by employing a largely immigrant work force at minimum rates. Premises were acquired in an area of high unemployment around Sunderland where regional employment and investment grants were available. A workforce of some 280 was recruited with plans to expand to 600. Workers claimed that once again minimum rates were paid. In some cases wage rates were below the minimum laid down by the National Labour Agreement. The Union of Furniture, Timber and Allied Trades became involved and workers demanded better rates in line with those paid by other furniture manufacturing companies. Workers' demands were supported by stoppages and go-slows but no concessions were obtained. Management complained of the poor productivity and high staff turnover and eventually decided to close the factory.

Despite intervention by ACAS full-time union officials and MPs, the management refused to reverse the decision, claiming that the Shop Committee had adopted deliberately uncooperative policies. It was the view of the workers that the closure was a means of ridding the company of its militant workers. The company had a full order book for some months ahead and it was understood that it was already advertising for a new workforce to take over. So the workers took their dispute to the industrial tribunal on the grounds of unfair dismissal. Although 'redundancy' constitutes a fair ground for dismissal under the 1974 Trade Union and Labour Relations Act, the employer must prove that he had 'reasonable cause' to make the worker redundant. The tribunal was at pains to make sense of the law in such a way that it would not have to look at the reasons why the company sacked the workers. It was making a decision in a new field, as this was the first issue of this kind to be brought to a tribunal. *The tribunal chose not to consider the question of the 'reasonableness' of the redundancy,* and ruled against the workers. The factory closed. The workers had been involved in a legitimate struggle to force the company to pay a more reasonable wage. The company had exercised their final sanction – closing the factory down. The tribunal's action makes a mockery of the idea that tribunals exist to protect workers interests.

In the words of the Chairman, Mr Justice Kilner Brown

> The employees, through the chosen applicants were and are seeking to use the Industrial Tribunal and the Employment Appeal Tribunal as a platform for the ventilation of an industrial dispute. This Appeal Tribunal is unanimously of the opinion that if that is what this matter is all about then it must be stifled at birth . . . The Act of 1974 (TULRA) has taken away all powers of the courts to investigate the rights and wrongs of industrial disputes and we cannot tolerate any attempt by anybody to go behind the limits imposed on industrial tribunals.

Even when the tribunal rules favourably, it is often difficult to ensure that the company complies. Women workers in the pressing department at Jackson's clothing factory in the North East were getting £3.00 a week less than men doing the same work. At another factory the difference was £6.00. Protracted negotiations took place between the unions and the employers. It was therefore agreed to make application to the industrial tribunal under the Equal Pay Act. Both sides agreed that to avoid causing disruption to production, just one application would be heard by way of a test case instead of all 50 of the women affected going along to the tribunal. After a two-day hearing, the Jackson's worker won. A long battle seemed to be over. But not quite. Despite the company's agreement to treat the one case as a test case, after the decision they then advised the union that they were not prepared to accept the decision and grant equal pay to all the women. After further protracted negotiations 'equal pay' has been granted. The men have agreed to take a wage cut!

In the face of this kind of evidence it is clear that for low paid workers the Wages Council, industrial tribunals and mass of legislation is no real substitute for strong trade unions. Our experience has shown up the desperate need for the extention of trade union organisation to cover the most exploited workers. To succeed, workers in these industries need the support of the local labour movement. Without strong organisation between factories, the possibilities for organisation within individual workplaces will remain very limited.

3 Speculation within the law

Houses to rent privately or from local councils are difficult to get hold of; so more and more people in the older, poorer urban areas are forced to become owner-occupiers. This doesn't mean they are better off or more secure. On the contrary the new situation provides new opportunities for making profits at their expense. The housing market manipulates to produce high returns for speculative finance. Our examples are drawn from older areas of small houses but the same basic system underlies the housing market throughout urban areas.

Once again we show how the law bends to meet the needs of capital. For a time in the early 1970s some of the biggest profits were made out of property. Capital moved not just from industry to more profitable industry as we have described but from industry as a whole to the property and financial sectors which provided a much higher return, even in the run down residential areas where CDPs operate. We show how the law provided little protection for residents against this onslaught, indeed how solicitors and other professionals serviced and supported it. Property is of special interest to the legal profession. 80% of solicitors' work is conveyancing, giving them an intimate knowledge of the market, and the power to play a key role in controlling it.

Pyramid selling

Pyramid selling schemes make money out of the people who invest in them (mainly by getting them to mortgage their homes). The Coventry CDP community lawyer became involved when he began to receive enquiries from people who had acquired large 'debts', often of one or two thousand pounds. When the project investigated they found that these cases were the tip of the iceberg. Pyramid selling companies like Holiday Magic or World Wide Household Products were conducting high pressure recruiting campaigns with 'dare to be rich slogans' in Hillfields and other areas of the city where people were most financially desperate. Many local people had invested large sums of money with little prospect of getting it back, let alone any profit.

Pyramid selling works as follows: People are invited to meetings to learn about an opportunity to make large sums of money through spare time work. A typical company presents itself as growing fast in an expanding market. Wild claims are made for the products to be marketed and they are relatively expensive. People who decide to invest in the company quickly find they are unable to sell their stock and recruiting other 'investors' appears to be a more lucrative way of obtaining a return on their investment. Investors who join the company buy their stock from others already in it – hence the pyramid arrangement. The agreement signed on first investing makes it extremely difficult to withdraw your money so the only possibility is to get more and more deeply drawn into the pyramid. The primary purpose of those who set up pyramid 'selling' organisations is not to sell anything. The money they make is taken directly from the 'investors'.

Although the community lawyer tried to obtain redress in one or two cases, most of the actions of the pyramid selling companies were legal. The project therefore decided to campaign publicly to discredit pyramid selling with the hope of deterring people from becoming involved. It got the Chairman of the Coventry Council Consumer Protection Committee to issue a press release warning the public and obtained considerable local press coverage for the scandal. These press cuttings were handed out at 'opportunity meetings' and the Grand Hotel Birmingham responded to a request not to use their premises for such meetings.

Pyramid selling wasn't confined to Coventry. It had become something of a national scandal and some MPs were calling for amendments to the Fair Trading Bill to cover pyramid selling. Clauses were introduced which were intended to stamp out the 'unfair and objectionable' methods of the pyramid selling companies and the new law came into force in late 1973.

No solution

By the time the Act appeared the momentum of pyramid selling itself had probably passed its peak. Not only had the widespread publicity begun to deter people from investing but the market had been saturated. All the potential 'investors' in areas like Hillfields had already become involved. Pyramid selling had hardly been nipped

in the bud – large numbers of people were already heavily in debt. The new Act did nothing to prevent those who were making money by lending to people involved in pyramid selling from continuing to do so. It also did nothing to prevent those who had invested in pyramid selling operations from re-investing in equally dubious but not yet illegal businesses.

One of the major companies active in Coventry was Golden Chemical Products Ltd. Before the law was passed, a number of people had come to the project because they were unable to pay the large sums of money this firm was demanding from them. But when the Fair Trading Bill was being drawn up, and MPs were anxious to distinguish the activities of 'rogue' and 'genuine' firms, Golden Chemical Products was one of the firms whose respectability went unquestioned. In 1972, in co-operation with Gordon Baker of the Consumers Union and Ray Mawby, MP, who were to be the trustees, Golden Chemical Products set up a 'buy back fund' for people who wanted to opt out. The scheme attracted considerable publicity with the issuing of a public statement by the trustees. They claimed that the pyramid selling system offered a genuine way of extending choice for the consumer, a healthy stimulus to the market place and chance to give 'many people a new start, a challenge to begin again and to start their own business'. Although Golden Chemical Products is in fact a subsidiary of International Marketing Management based in California, it was presented as a small company attempting to find ways of combatting the big giants – Proctor and Gamble and Lever Brother. Only a year later the trust was wound up without any of the publicity that had attended its inception, apparently following a row between the two trustees, leaving many people still without any form of redress. Meanwhile the legislation had not entirely put a stop to the activities of Golden Chemical Products. In January 1975, the Department of Trade were investigating its transformation into a 'front parlour sales organisation'.

While the intention of pyramid selling has always been to deprive people of their savings and cream off their income in the payment of debts, it is evident that some companies had the intention from the beginning of making their profits from 'loans' made to investors. Holiday Magic, another company active in Hillfields and other similar areas of Coventry and Birmingham, recruited houseowners only, suggesting to them that the £1,000 required for investment could be raised on a second mortgage. The next day a finance broker would call, fill out application forms and a cheque would arrive by the next post. This practice has ended with many people having to sell their houses or be evicted by the money lender who acquired the house. The second mortgage had been arranged by 'independent finance brokers' with Julian Hodge – a fringe bank known to have rates of interest of between 24% and 29% – giving second mortgages to other people involved in pyramid selling.

Despite writing to Sir Julian Hodge personally and getting promises, the Coventry Community Lawyer was unable to obtain satisfaction from him. An action group in the inner Handsworth area of Birmingham has had more success. Threatened by demonstrations and publicity, Hodge agreed to drop the eviction orders for those who had been unable to pay and in certain cases to renegotiate loans at a lower rate of interest. Hodge says he did not know that his loans were made to people caught up in pyramid selling and has dismissed the 100 'independent mortgage brokers'. These mortgage brokers are the small guys, in it for a commission of 2 or 3 % of the loan. They grease the mechanism which allows large and respectable financial institutions to make profits without getting their fingers dirty.

By its efforts in publicising the effects of pyramid selling, the project added its weight to the campaign for changes in the law and can claim to have helped stamp out pyramid selling. But the law has failed either to ensure any redress for those who had already been conned or any control over those who have made the profits from pyramid selling. The Handsworth Action Group's collective campaign against Julian Hodge, in which some people from Hillfields were involved has been more successful on this front.

CDPs like the one in Coventry can play a role in changing the law as well as in attempting to help people obtain their rights within it. The pyramid selling experience highlights the value of exposing scandals. But it points up some of the limitations of subsequent state intervention. It is not simply that the market always outwits the state. The state in the way it defines the problems it trys to act on, is careful never to challenge the basic assumptions, institutions and operations of the market process.

Mortgages in Saltley

Pyramid selling exploited working-class owner occupiers by persuading 'investors' to use their homes as security for loans. Other finance companies exploit the housing crisis by offering high interest mortgages. Denied access to regular building society or council loans, many families are forced to accept their terms.

In August 1974 Birmingham CDP took up the case of the Kavanagh family who, desperate to buy a house, were seduced into obtaining a mortgage from Cedar Holdings at 25% interest. They found the house through Ghandee First Time Home Buyers who advertised houses for sale in Saltley 'with mortgage arranged'. Not having a solicitor of their own (like most working-class customers) they were recommended by Ghandee to George Mitchell Colman. Working on a commission as a mortgage broker as well as an estate agent, Ghandee recommended a 100% mortgage from Cedar Holdings dissuading the Kavanaghs from using any other sources of funds. Six months after acquiring the house, Mr Kavanagh lost his job and was no longer able to keep up the exorbitant interest repayments. His mortgage debt then increased by £3 a day. Yet, to avoid this by

redeeming the mortgage early, he had to pay a penalty of £500 to Cedar Holdings.

Ghandee, Colman and Cedar Holdings made money by creating a market in which houses are constantly changing hands. This allowed Cedar Holdings to acquire penalty money, as well as all the interest they obtained. Colman made money through conveyancing and Ghandee through brokerage and estate agents fees. In one and a half years the house the Kavanaghs lived in had three different residents. In this period Ghandee, Colman and Cedars managed to make £2600 from it in fees, penalties and interests. In the beginning people were drawn into this system because the deal seemed attractive: a long 100% mortgage and roof over their heads. They weren't told about the penalty clauses and the true rate of interest was disguised by quoting a lower flat rate. Residents were then trapped in the system, because the only way they could sell their houses without getting into debt was to use the same agent who would catch another unsuspecting buyer.

The Tomlinsons were caught up in a slightly different system. In December 1974 they saw an advertisement in the *Birmingham Evening Mail.* 'Wright Road, bathroom type villa, £450 deposit, balance weekly payments'. Yorke Brookes, the estate agents were asking £3,900 for the house which had fifteen years lease left. They offered to arrange a mortgage of £3,650 over fifteen years with weekly payments of £10.12. The Tomlinsons agreed and the estate agent then took them round in his car to see a solicitor, John Silk and Co. There they signed a contract already prepared by Pitt & Derbyshire, solicitors acting for the vendor, Small Heath Property Co. Ltd., one of Yorke Brookes' companies. The small print on the contract later proved the Tomlinsons were buying their house by 'instalment mortgage' or 'rental purchase'. Variants of this practice have been used in Manchester and Liverpool to get around rent control legislation. A purchaser puts down a deposit on the house and subsequently repays the remainder of the purchase price in weekly instalments. The agreement drawn up states that the vendors title does not pass to the purchaser until the final payment has been made. Until then the purchaser occupies the property not as an owner occupier but as a licensee. They have no legal interest in the property and even less rights than the tenant who previously occupied it. They are not eligible for council improvement grants because they do not fulfil the council's conditions of ownership. So people who have an instalment mortgage have no hope of living in a decent improved home until the mortgage is paid off – a further ten or twenty years. Furthermore under the terms of the Leasehold Reform Act licensees must first pay off the total purchase price and then remain in the house for another five years before they have a legal right to freehold. When their mortgage finishes less than five years before the lease runs out, occupants will never qualify and are forced to become tenants of the freeholder. Although it is the job of solicitors to protect the interests of their clients, solicitors in Saltley have not made the implications of the instalment mortgage system clear to potential purchasers.

All this is legal. Only the conduct of the solicitors may be unprofessional – against the Law Society's rules. In these two cases solicitors were caught out on a technicality. The Law Society investigated George Mitchell Coleman after CDP had exposed their part in the Kavanagh case in the *Birmingham Post,* and formally complained about eleven other cases. The Law Society reported after two years of pressure from the project. George Mitchell Coleman was found to have acted for both buyer and seller twenty times: two partners were fined £750 each (and they in turn dismissed a clerk). None of the residents were compensated. The second case fitted a pattern where Yorke Brookes systematically sold houses on rental purchase, deploying Pitt & Derbyshire and John Silk alternatively to represent either themselves or the buyer. A complaint about the unprofessional conduct of Pitt & Derbyshire in misleading house buyers led to a wider investigation. Derbyshire, the former secretary of the local Law Society was found to have embezzled over £20,000 and was struck off the Law Society's list. John Silk & Co. is still under investigation.

The newspapers and the Law Society treated these cases as isolated incidents – as scandal. In reality they represent only the smallest 'illegal' tip of an enormous legal iceberg. It is like nailing Al Capone on a tax charge technicality. Thousands of people were taking on high interest rate mortgages with the persuasion or consent of agents and solicitors. Between 1972 and 1974 one in seven of all new mortgages in Saltley were with fringe banks or finance companies at interest rates averaging 25% and over half were with the respectable clearing banks like Barclays at an average 17% interest compared with a Building Society equivalent of less than 10%. Buyers were stretched to their financial limits by the size of their monthly interest payments and many defaulted when they became ill or unemployed. Market instability increased the number of property transactions, and so the demand for the services of estate agents and solicitors. Both made money from chaos.

As in the industrial sector, so here the law bent beneath the force of capital moving massively into property between 1971 and 1974. The rate of return for institutional investors in property, even in run down residential areas like Saltley was so much more than the return from industrial investment. Pension funds, insurance companies and banks especially, channelled their funds this way in search of bigger profits. Their force was relentless, irressistible. The local connections between brokers, solicitors and agents which caused so much acute hardship, merely greased the wheels of a much bigger system. The legal arrangements symbolically protecting house owners became more transparently devices enabling capital to move into more profitable investment.

Adaption not change

Getting across these basic connections has been CDP's

main task and the most difficult. The symptoms, the specific forms the system takes, easily cloud the real causes and changes can misleadingly be claimed as victories. The Kavanaghs and the Tomlinsons 'moonlighted', but others take their place. Ghandee First Time Home Buyers disappeared to reappear under a different name. George Mitchell Coleman were fined but still practice. Cedar Holldings got into financial trouble and stopped lending but were rescued and have started lending again. Behind them all the basic economic relations remain, seemingly neutral, distant, removed from the everyday thinking of people in Saltley. Only the symptoms make an immediate impact. The Project tried to link the two levels.

A good example, a failure in practice, was the attempt to persuade miners to switch their pension funds out of Cedar Holdings. Hard-earned wages went into the fund. But professionally advised by estate agents, its managers had put most of their £330m into property and a good part of it into Cedars, attracted by the high profits made by charging Saltley residents 25% interest on their mortgages. The project summarised the connections in a report sent to most of the miners lodges in time for the AGM of their Pension Fund. The meeting was sparsely attended, which isn't surprising. It was held in Cardiff at 2.30pm on a weekday afternoon which ruled out attendance by day and afternoon shift workers. One man who did attend asked for the report to be read out at the meeting, but this was refused. The Chairman said that if the fund had not put money into Cedar Holdings this would have resulted in serious consequences for the NCB Pension Fund and the British economy.

A second predictable failure was the project's attempts to get the state to intervene to cut out this kind of secondary bank lending. In fact government interests lay in the opposite direction. During 1974 and 1975 central government intervened massively to prevent the secondary banking sector from collapsing along with the property market. The Bank of England organised a 'lifeboat' which channelled over £1200m through the clearing banks into busted or precarious secondary banks. Cedar Holdings, for example which was forced to suspend new lending in January 1974 got a standby facility of £20m from Barclays Bank and another £50m for the NCB Pension Fund and other institutional backers. Now it is back in business.

Only locally has the project made an impact, and then only temporarily in a way which does not challenge the system. On a memorable occasion early in 1975 top executives of Julian Hodge (a substantial fringe lender in Saltley as well as Coventry) and their holding company, Standard Chartered Bank, mellowed by wine and whitebait (paid for by them out of interest on expensive loans to people in Saltley) agreed to stop their first mortgage activities in Birmingham. Shortly afterwards the council revamped its own mortgage lending procedures but promptly ran out of money following central government cutbacks. For eleven of the twelve months of the financial year from April 1975 neither the council nor the Building Societies gave any mortgages in Saltley, and since the secondary banks were in a state of near collapse or had voluntarily suspended lending the housing market in the poorer areas of Birmingham dried up. The number of empty houses doubled.

The legal profession has come through largely unscathed. A project blacklist of estate agents, emphasising their connections with certain solicitors may have curbed some of the worst excesses of arrangements, which were on the way out anyway, because of the changed economic climate. But solicitors continue to service, neutrally and expensively, the changing market. It takes a lot of the project's time to get someone transferred (under section 37 of the 1974 Local Government Act) from a high interest rate mortgage which he cannot afford to a council mortgage which costs half as much. It took a long time in the first place to get the policy implemented locally. And it costs the council a lot of money and manpower to bail out the creaking private sector in this way. Yet the same solicitors who willingly serviced fringe bank mortgages, now happily arrange their transfer.

Action possibilities

Moneylenders, private companies and professionals continue to exploit people despite, or even because of protective laws. They have a remarkable ability to get around new laws or turn them to their advantage. Golden Chemicals Products started a 'front parlour sales organisation' when pyramid selling was outlawed. When renting property was no longer profitable, 'instalment mortgages' were created. Yet in many ways this kind of adjustment is the exception rather than the rule; the new activities are too evidently a parody of the ones outlawed. More normally, whilst preventing particular practices, legal controls rarely stop the big financial institutions from simply withdrawing their capital and investing elsewhere. Cedar Holdings have moved out of residential property into industry. Julian Hodge are now part of Standard Chartered Bank which makes most of its profits overseas. The law changes its form. It deters. It is a sign that something is being done – a symbol – but it preserves the basic structure of economic and political power. The problem is how to intervene in a way which does more than move the problem around.

Pursuing individual cases through formal exchanges on the part of solicitors is only effective when the practice in question is actually illegal. In many of the pyramid selling cases taken up by the Community Lawyer, the action of the company was at the time perfectly legal. Test cases are a possibility but there is a real danger of unfavourable judgements. Advice taken by the Saltley CDP, for instance, indicates that their chances of getting the court to quash instalment mortgage agreements are not very high.

Exposing particular cases and getting them taken up by

the media has been a frequently used and often quite effective tactic. Cases of blatant malpractice and exploitation have been readily taken-up by local newspapers. The way issues become publicly defined is important because it conditions the way they are subsequently legislated upon. That state intervention is limited to bad practice and rarely challenges the more substantial workings of the market is partly a reflection of the way the issues have been presented by the media. In the case of pyramid selling even those who condemned it most wholeheartedly distinguished the firms who were providing a 'genuine alternative in the market place'. The Birmingham Post congratulated itself on having exposed the activities of Cedar Holdings, but failed to mention that nearly half the mortgages in Saltley were coming from 'respectable' clearing banks who were nevertheless charging interest rates of 16%-18%. The Law Society inquiry into the activities of George Mitchell Colman who acted for both buyer and seller was widely reported. That property companies systematically assign a single 'tame' solicitor to each buyer of their property went unreported and unchallenged. When it came to laying the blame for Colman's activities the headline in the Birmingham Evening Mail read: 'Woman Clerk Left in Charge of Law Office'. However strong the outcry, the issues are always presented as scandalous anomalies. Only rarely do they become a more general indictment. Yet it is worth continuing to insist on the links, revealing the normal processes which lie behind the scandals.

It took the threat of a demonstration with steel bands outside the headquarters of Julian Hodge in Cardiff before his bank responded to the claims of the Handsworth Pyramid Selling Action Group. But even when owner occupiers clearly have a common opponent, organising effectively has always proved more difficult than in the case of tenants. There have only been two recorded mortgage strikes. The problems are both ideological and practical. The Group which took on Julian Hodge for instance had first to overcome the feeling amongst those involved that they were business failures. Similarly the idea that you have failed as an individual if you have not been able to purchase your own house or keep up with the mortgage repayments is one of the myths of the 'property owning democracy'. In practice, too, there are fewer sanctions which can be applied, especially if the action is against professionals rather than their source of finance and legal battles can be extremely protracted. Outside agencies like CDP have a useful role to play. They can sometimes provide the finance required. Full-time workers can sustain the battle. However strong the tactics, fighting this kind of rearguard action will never solve the real problem, as long as the state continues to accommodate to the demands of capital. Any advance must involve greater public control over the banks and finance companies. It is their right to move around capital at will which must be challenged.

4 Incentives for better housing

The state is continually squeezed between working-class pressure for better living and working conditions and the need to continue to protect the interests of capital. To provide more jobs or better homes inevitably means exercising some control over the market. Yet we have seen just how reluctant the state is to interfere with profitability. One way out of this dilemma is to introduce measures aimed at attracting capital on its own terms into serving working-class interests. Regional Policy is one example. There are no controls over where factories are built or whether they should be allowed to close. Instead grants and other incentives are used to try to attract industry to particular areas. The reality of course has not borne out the promises. There has been little impact on job prospects in declining industrial areas, but for a long time it has been the government's answer to demands for more jobs in areas of high unemployment. Recently the state has come to rely more and more heavily on a similar approach to areas of bad housing.

A lot of housing in the older urban areas – much of it scheduled for demolition in the 60s – has now been declared suitable for improvement. The current view is that it is cheaper, certainly in the short term, for the government to offer grants to owners to improve their property, than to find the resources to undertake wholesale redevelopment programmes. In many cases however the houses are owned by absentee landlords. Reluctant at the best of times to do quite small repairs, most landlords are unlikely to commit expenditure on extensive improvement schemes when other investment alternatives are likely to bring greater returns. For this reason successive governments have tried to find ways of making improvement schemes an attractive proposition for small and middle sized holders of capital.

Initially, many local authorities and local people were reasonably enthusiastic about the introduction of area improvement policies. The government promised a 'new lease of life' to the urban areas. At least it seemed there was now some way of making older housing more attractive and comfortable until they were knocked down or fell down. In practice few of the houses in the greatest need have been improved. Whether or not it began in good faith, the house improvement legislation has proved an elaborate exercise in legitimating the continued existence of thousands of areas of bad housing – areas like North Benwell in Newcastle, where 1000 out of 1,770 homes have no bath or inside toilet.

Policy change

Although improvement grants were introduced in 1949 it was not until the passing of the Housing Act 1964 that the idea of area improvement surfaced as a systematic way of tackling substantial areas of inadequate housing. Before then improvement grants were available for individual houses and the main candidates were owner occupiers. At first the Labour Government that came to power in 1964 chose not to pursue this direction. Its professed commitment was to increase new house building. Indeed the number of council houses built rose from 124,000 in 1963 to a peak of 204,000 in 1967.

In the successive years however the emphasis changed. As the White Paper of 1968 *Old Houses into New Homes* put it

> it is possible to plan for a shift in the emphasis in the housing effort . . . the balance of need between new house building and improvement is now changing . . . The government intend that within a total of public investment in housing of about the level it has now reached, a greater share should go to the improvement of older houses.
> Ministry of Housing & Local Government, *Old Houses into New Homes,* 1968

The White Paper was less than honest when it justified this new direction in terms of the success of the house building programme over the previous years. Other factors were much more clearly at work in the process that led to the 1969 Housing Act and the renewed emphasis on improvement. A primary and familiar consideration was the level of public expenditure. Then, as now, the Treasury had decided that a slow-down in new building was necessary in the face of an economic crisis and it was argued that improvement was a cheaper option. The government also faced a situation where many local authorities, newly under Tory control, had cut back local building levels. Increasing emphasis on the improvement rather than redevelopment implicitly recognized and co-opted this resistance. A final longer term factor in the

policy changes up to 1969 was the drift within the Labour Party itself towards the 'middle ground' of housing policy.

The expansion of the public programme now proposed is to meet exceptional needs. It is born partly of short-term necessity, partly of the conditions inherent in modern urban life. *The expansion of building for owner occupation however is normal:* it reflects a long-term social advance which should gradually pervade every region. (Our emphasis)
Ministry of Housing & Local Government, *The Housing Programme 1965-70,* (1965).

The shift reflects both the changing make up of the Labour Party and its view of who forms the basis of its electoral support. One consequence has been the increased emphasis on the policy of improvement of old housing which develops and gives a new lease of life to private sector houses. It is a policy of course which conservative governments can slip into easily on assuming office.

It is against this background that the Housing Act 1969 took shape. Local authorities were offered powers and encouragement to initiate large scale improvement programmes in designated General Improvement Areas, as an alternative approach in 'urban renewal' to whole scale redevelopment. Many commentators were from the start cynical about the benefits improvement policy could offer working class residents in areas of old housing.

The grant aided improvement of large numbers of the older houses can be no more than a relatively short term palliative . . . much of the improvement work only raises substandard houses up to a minimum acceptable level; it does not turn them into well-equipped desirable residences in attractive neighbourhoods. It is a delusion to pretend otherwise.
John Greve: *Report on Homelessness in London.*

Criticism centred even at that early stage around the standards of improvement work and, even more so, around its viability as a *long term* solution to housing problems. In the same report, rehabilitation policy was referred to as 'a vast exercise in putting off the evil day and not putting it off for very long'.

It was always clear that the severely qualified nature of the improvement package was the price working class areas were expected to pay in order to obtain the support of private capital. Incentive was a key concept. The improvement grants available during the sixties had not attracted a heavy demand and of the grants that had been given, four out of five went to owner occupiers or local authorities. If improvement was to be effective in older working class areas it obviously had to involve the private rented sector. So to make the policy more attractive to the owners of older dwellings the government felt constrained to relax the conditions which had previously been thought necessary. It was not simply a question of financial inducement, although the 1969 Act offered higher grants, a larger initial contribution and a reduction in standards. Another price to be paid for the entry of private capital was the loss of direction and control of the programme by the local authority. As the Minister, Antony Greenwood, put it in the parliamentary debate, 'the harsh and unconscionable use of compulsory powers' would not be allowed for in the Act. Authorities were left with no powers of compulsory improvement and only the back-handed threat of compulsory purchase if landlords proved stubbornly resistant to the very end.

Nothing doing

What actually happened in one area – North Tyneside – as a result of the Housing Act 1964, is typical of many areas throughout the country. The pace of improvement has been extremely slow, despite special area status which meant that higher grants were available than elsewhere (75% instead of 50%). By the end of October 1975, more than six years after the introduction of the Housing Act 1969, well over 40% of all housing in nine GIAs had still not been improved. Things are unlikely to get better in the future as the rate of improvement is actually slowing down now. As living standards fall even fewer owner-occupiers can afford to begin improvements.

East Howdon in North Tyneside was declared a GIA in June 1973. 45% of the houses have been improved, but only 20% have been improved to full standard. 55% remain unimproved and only 27% of these have been given some promise of improvement in the future. The reasons are not complicated. Owner-occupiers are often elderly and have little or no capital to finance improvement and certain categories of landlord are reluctant to invest in an area where they see no prospect of making any extra money.

The council's use of its limited powers to compel landlords to do improvement work has only served to reveal even more clearly just how inadequate these are. There are not sufficient public health inspectors to press cases through a long drawn out administrative and legal process. Cases can only be tackled one by one, despite the clear need for comprehensive action. Poor council management has compounded the problems. By the end of 1976 North Tyneside still has no special team to co-ordinate and implement improvement work. At a public meeting held in East Howdon in February 1975, over 100 residents decided that in the light of their frustrating experiences, the only way to guarantee improvement was for the council to buy up all the unmodernised homes and to create its own improvement teams. Not surprisingly, the council has not heeded the residents' advice.

If the areas in the greatest need did not provide adequate financial bait for private capital to use the 1969 Act, this did not mean that it simply abstained. It moved instead to areas where adequate, and more than adequate returns, were to be made. In many areas there has been a blatant misuse of grants, for 'gentrification', involving the exploitation and harassment of established tenants, for converting second home country cottages and for the extraction of considerable profits by development companies. The effect of private market forces was to limit the impact of already inadequate legislation even further. Capital followed its nose – the path of profit – and working-class areas were

clearly not good hunting ground. But what the open nature of the law did allow for was rampant abuse in areas that were more susceptible to a quick return.

What possibility there was of retrieving a coherent policy within the terms of the 1969 Act lay with local authorities whose job it was to oversee improvement programmes. But with limited powers effective action was difficult. Local authorities were empowered to undertake environmental work and also to buy up properties which landlords were failing to improve. Resources available for environmental work were from the start limited – only £200 a house – and have recently been cut back even further. Most GIAs are situated in areas of heavy industrial plant, derelict land and buildings, busy main roads and so on, making a mockery the superficial 'cosmetic' schemes – weedy trees and tubs of flowers. Many residents saw such schemes as an irrelevance especially when nothing was being done about the houses themselves.

Acquisition of properties and their improvement by the local authority itself has been no more successful. Section 32 of the 1969 Act gave councils compulsory acquisition powers but only for individual houses with particularly recalcitrant landlords. Nowhere was government authorisation given to any comprehensive municipalisation of property. But many councils have not even attempted to use the law as it stands, and acquisition, where it has taken place, has tended to be piecemeal, usually only pursued as a last resort where landlords have repeatedly refused to improve houses themselves. The contrast with the public sector is strong. By the end of October 1975, out of 3,172 homes included in council house GIAs in North Tyneside, 2,931 had been modernised or were in progress.

Stronger action?

The evident inadequacy of the 1969 Act, generated considerable criticism, even from local authorities. In 1974 the government responded. The new Housing Act strengthened the power of local authorities to serve compulsory improvement notices. The legal process involved is so protracted however that the wonder is that any householder has managed to see a compulsory improvement notice through to a successful conclusion.

Encouraged by the local residents association, residents in a block of flats in North Benwell campaigned to get Compulsory Improvement Notices served on their flats. It took nine months for the council to serve the notices under the Housing Act 1974, Section 85. In September 1976, twenty-one months after the campaign began, the improvement notices expired. Meanwhile, virtually *no* modernisation had taken place. Some flats had been compulsorily purchased, but work had not begun. Others had been sold privately, with the council rehousing the tenants. Elsewhere nothing at all happened. The local authority was generally slow to purchase, often allowing private speculators to get in first. By rehousing many tenants, rather than buying up their flats, they added to the speculation already going on, as landlords were able to get a much higher price for their new vacant property. In properties which were sold privately and modernised, the work was only done to a low standard. Where the council bought properties, modernisation was to be to a higher standard, but the process was slow, All along the line, little information was provided about what was happening and residents are still confused about current plans. In their report on the campaign, the residents' association make their conclusions clear:

> As a strategy for assisting residents to get the best improvements done quickly to decaying houses, COMPULSORY IMPROVEMENT NOTICES DON'T WORK!
> Benwell Grove Residents Association Development Group, *Compulsory Improvement Notices Don't Work,* September 1976.

The pattern is the same everywhere. The process of serving Compulsory Improvement Notices is spun out for as long as possible. Additional, informal steps, easily get introduced into what is already a lengthy process. It is claimed that agreement reached outside the law is more likely to bring quicker improvement, and overworked public health inspectors favour informality because their work is minimised while the law is technically upheld. But where landlords are concerned 'informal' becomes another word for 'delay'. In addition, local authorities are consistently reluctant to buy up unimproved houses. If they acquire and improve houses themselves they only get a 66% grant but if the work is left to private owners, landlords or housing associations then they get 90%. As government expenditure cuts now severely limit what local authorities can afford, even those considering compulsory purchase have been forced to think again.

In an attempt to make the law more relevant to poor areas, the 1974 Act, provided for a grant of up to 90% to be paid in cases of hardship. It is left to the local authority, both to define whether someone is suffering 'hardship' and in each case, how much the grant should be increased. The Department of the Environment has provided a partial definition by suggesting that it includes people eligible for supplementary benefit, rent or rate rebates or on a state retirement pension. But for many people living in these areas the difference between 75% and 90% grants is academic. For a family to get a 90% grant, their income would have to be so low that modernising their home would probably be the last thing they would contemplate. North Tyneside Council is about to declare a Housing Action Area (HAA) – the new version of the GIA – in the Triangle area of North Shields. Many of the people who live there work in Swan Hunters Ship Repair Yards. In a situation where work is uncertain, as lay-offs are frequent, few householders are in any position to commit themselves to extra expenditure. Some authorities prefer to give mortgages or loans to make up the difference between the 75% and 90% levels but any loan that is secured is at market rates of interest and the relatively low value of property in HAAs make it difficult to raise a loan in the

first place, even assuming an owner could afford the interest payments. The Building Societies, whom the government has been exhorting in recent months to lend in relatively low income areas have so far resolutely kept their doors firmly shut. They are not going to finance what is regarded as 'unsound risk'.

The experience of improvement policy clearly reveals the pecking order of government priorities. Housing policy submits to the needs and dictates of the market. At a national level the demands of the market are linked to very broad questions – the role of housing as an economic regulator, for example, or the priority to be given to housing in the face of international demands that more should be spent on private industry. But in the case of improvement policy it is the interests of small and medium-sized property owners that are important. Their concerns are usually more local, and, in some ways more clear cut. They ask the key question 'can we get a good and secure return on the money we invest in improvement here?'. For working class areas the answer is too often 'no' and capital moves elsewhere. The people in those areas' need for decent housing is secondary. Incentive-based policy has clearly failed them.

Part two
Justice from the state

Since the war, the state has played a far more interventionist role in society. Part One showed the way it has increasingly drawn up the rules and provided the mediating mechanisms in the unequal struggle with private companies. We also saw it's increased direct intervention in the economy, facilitating industrial reorganisation at the expense of the workers in the older urban areas. The state has become much more concerned, too, with the direct provision of services: a health service, council housing, education and social security.

This massive development of state activity on all fronts, has been accompanied by a rapid growth of new legislation and of machineries to put it into action. On the whole these new procedures have been located outside the traditional legal system. They rarely involve the judiciary and are on the whole quite foreign to solicitors. Nevertheless their form and function could be described as 'quasi-legal', with formal hearings, lawyers taking decisions and ultimate appeal to a court on points of law. There are state machineries to control who gets a council house, whether a child should be taken into care, who is allowed to enter the country, whether a new building can be erected, whether a woman is eligible for equal pay, how much social security each claimant should get and so on. Each one is subject to a framework of rules and regulations administered almost entirely by government agencies. It is the daily job of public health inspectors, immigration officials, social workers, and hundreds of other government officials to assess the 'justice' of individual cases.

With exceptions like immigration, the administrative system is mainly concerned with the Welfare State. Administrative mechanisms deal with the material problems of the working class, either directly through the provision of housing or unemployment pay or indirectly by controlling rents and working conditions. In the post war period the introduction of the Welfare State has been heralded as a major working class victory. Yet experience reveals a contradiction. Even when the state is concerned with alleviating material problems, it fails to operate in a way which reflects working class interests. Take social security. Unemployment and low wages force many people to turn to it to survive. Yet often they are extremely reluctant to tangle with the system, even when they are clearly eligible for benefits. They wait until they are desperate, because they know they will receive rough justice from the state.

Although each area of the law is different, the workings of the administrative system reveal a consistent pattern. Decisions are often based on documents or regulations simply not available to those who are supposed to be covered by, and rely on, them. The 'A' code, used by the Department of Health and Social Security, is the most infamous but not the only example. If the working rules of the state agency are formally accessible they are usually unintelligible in practice or unworkable for the layperson. Help is needed to unravel complex rules and regulations, but it is exceptional for government officials to take a sympathetic, demystifying position. Likewise the structure of government departments seems constructed to form another blockage. Who is responsible to whom and how do you reach them? Is there a right of appeal and what rights of representation are there? Time and time again individuals come across confusion or delibate obscurity on these points. When the structure is finally revealed it all too often has gross failings. Many decisions are not made on the basis of precedent and in some areas, like housing allocation, there is no formal appeals mechanism at all. Pressure for reform, together with government concern with better management, brings frequent adjustments to the rules and procedures, but on the whole demands for greater clarity and accessibility have gone unheeded.

The 'rights' which the administrative system offers are so severely qualified that in practice people are reluctant to insist on obtaining what is due to them. Whatever their roots in social and economic forces, people's problems are always dealt with on an individual basis. At its most pernicious this involves throwing the problem back at the victim as their own. Long term claimants are workshy; homeless families are socially inadequate or irresponsible. At another level unsuccessful applicants on the housing waiting list are made to feel that they have not been able to get a house because they have failed to detail clearly enough their own appalling housing conditions, rather than because the state has failed to build enough houses. The effect is divisive and deters collective action. The state hides behind discretion and confusion. Cuts in housing spending for example are obscured by formal technicalities about priorities on the housing waiting list. Sometimes discretionary power is used to enable practice and policy to operate in totally opposite directions. Entry Certificates apparently designed to ease the entry of the dependents

of immigrants into Britain, are used in practice to keep them out. In all, it seems that the administrative system has taken its current form in order to limit the possibilities of political challenge.

In many ways it is the poorer declining areas where the state looms largest. Many people have to rely on social security. Council housing predominates. Tenants paying too much rent turn to the rent tribunal for redress. Workers paid below the minimum call on the state to back up their claim for higher wages. Immigrants continually come up against the civil service through citizenship and other issues. The Environmental Health Department is called in when landlords fail to do repairs. Slum clearance and modernisation programmes mean continual encounters with local authority officials. Local people have continually to take issue with the state over all of these.

In the following sections we look at CDP experiences of immigration, social security, council house allocation and environmental health issues. In each area, the law is different. Immigration, for example, is tightly controlled from Whitehall, while each separate local authority draws up its own rules to decide who gets a council house. But for each set of issues, the effect is similar. The law functions to disguise economic realities and minimise dissent.

5 Deterring asian immigration

In times of economic boom, extra workers are needed to fill the least desirable and lowest paid jobs. In the post war period Britain turned to its old colonial empire to recruit more labour. The rapid influx of workers, first from the Carribean and later Asia, met industry's need for workers but in turn brought problems for the state. The new workers also needed somewhere to live, intensifying the housing crisis in already hard-pressed urban areas. The government took little positive action to improve the situation, but as the resentment of the native white population grew and fears of racial violence spread, it became clear that these problems simply could not be ignored. In addition, unemployment was growing and, from the middle of the sixties, the economy began to have less need of immigrant labour. All in all, it was now in the interests of the government to deter immigration.

Under cover of a debate on how overcrowded Britain is, government policy over the last decade has gradually adapted to the new situation. Immigration from the Commonwealth has been brought to a virtual standstill. In future the needs of industry will be met by workers from nearer at hand in Europe or North Africa. Only admitted on limited permits they will be sent home when they are not required. They will not be encouraged to settle and will not bring their families over.

The change in policy has been brought into effect in direct and indirect ways. Not only have increasingly harsh immigration laws been introduced. These, and other laws relating to immigrants, are now being administered in a more and more restrictive way. Because they are more recent newcomers than the West Indians, the Indian, Pakistani and Bangladeshi communities have suffered most from these changes. This section looks at some of the difficulties they have faced and shows how government policy is carried out by relying more on the way the law is administered, than what it actually says.

Bringing dependants into Britain

The British Government has controlled and curtailed the entry of immigrant workers since 1962. Their dependants have, however, always been entitled to come and join them and until 1969 the government allowed them in without any scrutiny. But in May 1969 the entry certificate system was introduced. James Callaghan, then Home Secretary, told the House of Commons:

> We have decided that it would be more *humane* and lead to *improved efficiency,* if those who have a claim to settle here have their case scrutinized and decided before they set out on their journey. (Our emphasis)
> *Hansard* May 1964.

Many families eager to exercise their right of entry are still divided. The estimated number of potential dependants is 75,000. Many have been refused entry certificates, or are still trying to obtain them. Some people have been waiting for over five years. Many others are deterred from applying in the first place by the daunting procedure that lies ahead.

To get an entry certificate the husband sends his family abroad a sponsorship declaration form. His family then submit their application to the Entry Clearance Officer at the British Embassy. They are given an interview date and a list of documents they must obtain. Over the past few years the average time between the application and the first interview in Pakistan has been about two years. At least two visits to the Embassy are required, one to apply and one to have the interview. The journey is often very long and expensive. From the Mirpur district of Pakistan, for instance, – where many people in Saltley come from – the round trip to Islamabad takes three days. All applicants over ten years old are interviewed one by one. Each interview can last up to six hours and no limits are placed on the kinds of questions asked. The point of the interview is to establish whether the applicants are really, as they claim to be, the dependants of the person in England. All the applicants are asked the same questions and their answers compared. Any inconsistency is taken as proof that the relationship is not in fact as claimed.

The interviewing is conducted by British officials with an interpreter. It is often the first time many women have

been in such a situation. Questions include names and birthdays of all the members of the extended family and minute details about the household. These range from the number of chickens kept to the colour of the goats or the number of windows in each room, some questions have no correct answer at all, like 'what is there on the left of your house?' Detailed questions are often asked about the wedding ceremony and the relationship between husband and wife. These are extremely embarrassing for Muslim women and a serious intrusion on their privacy. If the case is referred to Britain for investigation, the husband may also have to answer similarly detailed questions about the household, despite having spent many years in Britain. Not surprisingly mistakes and inconsistencies occur. They are then taken as evidence of ineligibility. Often further documents including family correspondence have to be produced by the family or by the sponsor in England, leading to further delay. Sometimes applicants are asked to bring other relatives to a further interview to cross check facts. This can often involve elderly people unfit to travel on very long journeys. Obtaining all the documentation required can be difficult for the husband too; British government departments – like Inland Revenue Offices, for instance – are often reluctant to provide the evidence required.

If finally the application is rejected, it is possible to appeal. Decisions are taken in Britain by an 'independent' adjudicator, often a part-time solicitor or barrister with a colonial background. It isn't surprising that 80% of appeals are rejected. Although additional evidence is admissable, the appeal centres on the Entry Clearance Officer's report, with all the inaccuracies it may contain including errors of interpretation and translation. To ensure accurate translations it is sometimes necessary to bribe the interpreter. In the absence of an alternative authoritative account of the original interview, or a basic reassessment of the case from the beginning, no higher success rate could be expected.

In the Saltley area many men have been waiting for two or three years for their dependents; of those who have had to provide additional evidence or have appealed against the refusal of an entry certificate, some have been waiting for five years. Many have been turned down altogether. They come for help to the project's advice centre which provides information about the procedure and the documents required. All appeals work is referred to the United Kingdom Immigrants Advisory Service. Everyone experiencing difficulties is referred to their MP, and in turn many MPs have taken up cases with the Home Office. The Glodwick advice centre in Oldham also assists people with entry certificate difficulties and has tried in particular to help people for whom there might be 'compassionate grounds' – people who are extremely ill for instance – but it has not found a single case acceptable to the Home Office. Batley CDP also took up entry certificate cases, focusing on the reasons for rejection. Evidence was collected to show these were invalid. Such cases were then referred to UKIAS and extremely complicated ones to the local MP. The success rate in appeals, however, was extremely low.

Because they felt there was so little that could be done to assist individual cases, the Saltley advice centre decided, along with other immigrant organisations, that the issue should be widely publicised in the hope that this would provide the pressure to reform the administrative system which were causing so much delay. A report describing the experiences of Pakistanis in Saltley was prepared and widely reported in the press. At the same time the Runnymede Trust published a report on the situation in Pakistan and also co-operated in the production of a television documentary. As a result, the system was altered, but not improved. Dependents are now placed in categories. Category one dependants (wives and young children) get in faster. But it now takes *longer* for large families with children nearing eighteen (category three) to get entry certificates. Pressure brought a response from government but no real advance.

Tax allowances for dependants

Although immigrants with dependents abroad are fully entitled to claim tax allowances for them, in practice it is difficult to establish the existence of bona fide dependents to the satisfaction of the Inland Revenue. Many documents are required which are frequently difficult to locate or replace. Often the documents do not exist at all as much less emphasis is placed on documentation in Pakistan and Bangladesh than in England. Marriages may not be formally recorded and in Bangladesh birth certificates have only begun to be issued in the last few years.

Until recently, the principle document required to prove the existence of dependents was the affidavit – a sworn statement based on documents sent from the home village. As this information was occasionally found to be inaccurate, it has now become normal practice for the Inland Revenue to demand maximum documentary evidence to support any claim. CDP centres have found that Inland Revenue continues to demand unobtainable documents to the extent that they suspect this to be deliberate policy. Immigrants are thus forced into the paradoxical position of having to obtain false documents to prove genuine claims. As a result around half the applications for tax allowances are rejected. No clear criteria for acceptance or rejection are laid down and no justification for decisions is ever given.

The change in Inland Revenue policy has not only made impossible demands of many applicants, it is also causing difficulties for immigrants returning to this country. The case of one man who lives in Oldham and comes from Bangladesh is typical. Having been in England since 1961, he went back to Bangladesh to visit his family in 1972.

When he returned in 1974, the affidavit given by the village chief official was no longer acceptable to the Inland Revenue. Re-examination of the case of everyone who returns from Bangladesh now appears to be standard practice, and initially acceptable affidavits are being rejected. The practice is sufficiently widespread to be beginning to deter Bangladeshis from returning to this country. This man may not only lose his tax allowance, he may have to pay back all the money he has been allowed since 1961. In both Oldham and Saltley there have been a number of cases in which the Inland Revenue has successfully prosecuted Asians for the repayment of money acquired through having obtained a more advantageous tax code on false evidence.

Further problems are being caused by delays – sometimes over three years – in pressing claims. Again the Inland Revenue have been unable to provide any explanation. Another man, for instance, who has been coming into the Glodwick Advice Centre every other day since the Centre opened three years ago, has not been able to claim tax allowances for his two sons who are in Bangladesh. He claims to have submitted all the documents to the tax office but has not had any positive response from them. He frequently comes to the centre with yet another letter from the tax office asking him to supply further information about the family which has already been supplied to them. There are even longer delays in the refunding of overpaid tax to people who have succeeded in proving the existence of genuine dependents. Some people have been waiting so long they may have to forfeit their right to a refund, as the time limit is six years. Again the Inland Revenue has produced no satisfactory explanation and many people suspect this is deliberate policy. Just how unaccountable the Inland Revenue is is illustrated by a case from Batley. It is within the discretion of the Inland Revenue to determine an 'adequate' level of income for dependents. In this case the applicant was denied a tax allowance on the grounds that his dependents received sufficient income to support themselves, despite being offered proof that they were landless and had an income of only £418 per annum.

Inland Revenue decisions can be appealed against. They are heard by Inland Revenue Tribunals but suffer from many of the weaknesses of similar tribunals. Rulings are given by people appointed and paid by the Inland Revenue; there is no system of precedents and lay advocacy is not allowed.

Besides the delay, uncertainty and loss of earnings caused by the Inland Revenue policy of treating all immigrant documents with extreme suspicion and the specific deterrent to Bangladeshis, further even more disturbing implications of this practice are beginning to come to light. The Saltley advice centre has found that the Home Office seem to be passing on information about the 'genuineness' of dependents to the Inland Revenue, who are using this as evidence in assessing tax codes. Inland Revenue, it seems, assume that men whose dependents have not been given entry certificates are not in fact married. Men who were obtaining allowances for dependents have had their tax code changed as their dependents were refused entry certificates. The situation is so serious that people are actually being deterred from applying for entry certificates because they fear it will affect their tax position, and may involve having to pay back large sums of money. In Batley several men have been faced with tax demands for over £1000 dating back to 1964, for dependents allowances awarded at that time but rescinded on the basis of information from the Home Office. Despite increasing evidence that the Inland Revenue is using Home Office evidence in assessing tax codes, the Inland Revenue have denied that decisions made by immigration authorities are admissible evidence. From Canning Town there is evidence that this exchange of information between the Home Office and the Inland Revenue is also working in the opposite direction. An Indian family applying for an entry certificate were rejected on the grounds that the Inland Revenue had refused the husband's application for a tax allowance for his dependents. The exchange of information does not work in the other direction. A family who has been granted a visa, does not enjoy automatic tax relief.

The idea that decisions arrived at by one government department for their own purposes should be used for entirely different ends by other government departments is clearly unacceptable. It takes no account of the possibility that the first government department may have been wrong, or that people may be making genuine claims even if their documentation is inaccurate. Having been refused the married tax allowance a man in Oldham asked the Glodwick Advice Centre to request the return of his marriage certificate. When they did this, the Bootle Inland Revenue Office said that they had no intention of returning it. A photocopy was available, but the original would be burnt. When asked the reason for this, they were told that the man might use it for other false purposes.

Obtaining British nationality

The problems faced by Pakistanis were further compounded when Pakistan left the Commonwealth. In May 1973 the Pakistan Act was passed, making all Pakistanis aliens. Pakistanis 'ordinarily resident' in Britain were given six months to apply to become British citizens. (After a great deal of pressure from immigrant organisations this period was extended to twelve months). Pakistanis who fail to apply or are rejected remain aliens, unable to vote, debarred from certain jobs, forced to obtain work permits, and liable to be deported at any time for an unspecified reason 'for the public good'.

100,000 Pakistanis applied for registration by August 1974 and further applications are being submitted as people

fulfil the five year residence qualification. Most have experienced considerable delay and about 15,000 applications are still outstanding. Already 6,000 have been refused and on the Home Office's own admission, many of the outstanding applications are likely to be rejected. The Act states that to obtain British Nationality the applicant must have had five years of 'ordinary residence' in this country. 'Ordinary residence' however, is not defined and the Home Office's interpretation of the phrase has not been consistent. Decisions on individuals cases often appear to have been reached in an arbitrary way, against a general background of increasing stringency of criteria over the past months.

Where families are separated, the husband must make trips to Pakistan to see them. It is too expensive to go frequently, so when he goes he spends as long as possible with them. To finance the trip he may sell his house or give up his bank account – the kind of things which government authorities regard as evidence of a 'substantial connection' with this country. Doing this decreases his chances of being awarded British Nationality. So not only are families being deliberately kept apart by British government policy, but they are penalized for spending time together. Under the Pakistan Act there is no appeals procedure and no right to reapply.

When British nationality is obtained the difficulties do not stop. Women who are eligible for British Nationality because their husbands have been granted it are being told when they apply that their marriages are not valid. The Home Office regards marriages of people domiciled in Britain which take place in a country permitting polygamy as void. Pakistanis living here who have returned to Pakistan to marry may face the indignity and bother of having to remarry. So, many men are refused nationality on the grounds that they are not 'ordinarily resident', while many women are refused nationality on the grounds that their husbands are 'domiciled' in Britain. In the former case it is the intention to return to Britain that is conveniently ignored, in the latter the substantial links with Pakistan.

All five CDPs receive many queries about nationality applications and have established links with the Home Office to find out how individual applications are progressing. As it became increasingly clear that large numbers of people were being rejected, the Saltley Project decided to mount a wider campaign on the nationality issue. They leafletted the area and called a meeting of those whose applications had been rejected, attended by over a hundred people. Thirty-nine cases were found where it seemed the Home Office had contradicted their own implicit criteria. These cases were sent as a package to the Home Office with a detailed letter about each case explaining the position. A copy of each letter was also sent to the applicant's MP. The results have been minimal. At the moment a new campaign is being launched together with other immigrant organisations to publicise the issue and change the residence requirement to an aggregate of five years spent in this country.

The only course of action open to Pakistanis who are refused British citizenship under the provisions of the Pakistan Act, is to apply for naturalisation but this offers little hope. One condition for acceptability is that the whole family reside in this country. But the people refused citizenship by registration are precisely those who have to spend time out of the country because their families cannot obtain entry certificates. In addition, as they are considered 'returning residents' for the purposes of immigration law, many return to their home country to visit their families not realising that when they attempt to return to Britain they may be disqualified as residents. The anxieties that attach to alien status do not relate only to the restricted civil rights that this currently involves; the new nationality Bill – in the pipeline for two years now – will undoubtedly restrict those rights even further.

Economic necessity

A lot of government legislation is 'symbolic': practice doesn't square with stated intention. When the Pakistan Act was being drafted, for instance, Labour MPs, then in opposition, suggested that the period of ordinary residence should not be regarded as having been interrupted by a period of up to two years spent abroad. David Lane, the Parliamentary Under Secretary of State at the Home Office, replied that 'a time limit might undesirably restrict our freedom to allow in certain exceptional circumstances a longer period of absence abroad than two years'. He was arguing against defining 'short absences' on the grounds that this would avoid any undue restriction. The Labour Party accepted his assurances. In office, however, they have used the lack of definition of 'ordinary residence' to interpret the law even more restrictively than the Conservative administration.

But simply to see the inadequacies of the law as the cause of the problems facing immigrants is to pose the question the wrong way round. Whatever the law says in theory, the current practice serves the interests of the state. The economy no longer needs immigrant workers from the Commonwealth and their dependents are seen as a drain on state resources. To legislate for repatriation or to divide families would be politically unacceptable. By effectively curtailing the few rights immigrants have left under recent legislation, administrative practice fills the gap between what is politically acceptable and what is required by dominant interests in the economy.

6 Getting a council house

Thirty years after the end of the second world war many working class households are still without a modern home. Homelessness is rising steadily and more than one million households are on local authority lists waiting for an offer of council housing. The number of new council housing units grows steadily, although at a reduced rate, but there is no prospect that present or future needs will ever be met.

The CDP report *Profits against Houses*, published in September 1976, argued that while the housing finance system allows profits to come first and the need for housing second, there will always be a housing crisis. Here, we want to show how the processes which determine who gets a council house turn out not to distribute scarce resources fairly, but to manage and manipulate the scarcity.

At first sight the housing allocation system has no place in a report on the workings of the law. It is included for a number of reasons. First, decisions on who gets and who does not get housed are taken within the administrative system in just the same way as decisions on enforcing standards of public health, levels of immigration or granting extra needs payments. Second, housing allocation has none of the formal 'safeguards' of other areas within the administrative legal system: no appeal tribunals, no reference to a court on points of law, no public scrutiny. It is true that there are internal machineries that correspond to these, but they involve little pretence of impartiality and no rights of representation for potential tenants. Third, the housing allocation system is an issue in every area. It is politically very sensitive and gives rise to a large amount of local anxiety and suspicion. Three projects, Southwark, Paisley and Oldham have carried out studies on the allocation procedures in their authorities and all CDPs have acted for tenants trying to make the system work.

The allocation system

For most people on low incomes obtaining a council house is the only prospect they have of ever getting somewhere decent to live. With the exception of people rehoused through redevelopment, their chance depends on their position on the housing waiting list.

Councils have little statutory guidance in making their decisions. The Housing Act 1957 gives them a duty to give reasonable preference in selecting their tenants to 'persons who are occupying insanitary or overcrowded houses, have large families or are living in unsatisfactory conditions'. But beyond that it is up to them how they do it. Until recently each local council drew up its own criteria for giving priority on the housing list. In the last few years attempts have been made to standardise procedures, both through the creation of strategic authorities under local government reorganisation and the publication of reports like *Council Housing Purposes, Procedures and Priorities* (Ministry of Local Government and Housing 1969). In practice however, councils continue to draw up their own rules and to keep control of their own wide areas of discretion.

In most cases the formal ranking of applicants on the housing waiting list is a straightforward procedure. On being accepted onto the list, often after a qualification period, points are given to reflect factors such as present housing conditions, size and composition of household and length of time living within the local authority area. Additional points are added for length of time on the waiting list. Most authorities have a system of priority points which are added to the total for exceptional factors, usually medical conditions, certified by a doctor. In theory houses are allocated to people at the top of the list according to the size of accommodation they require, forty points for a two bedroom flat, forty six for a four bedroom and so on.

It is clear that in practice this simple system breaks down and is really only a crude guide to what happens. For example, in many areas a large number of households qualify at the same level and a choice has to be made between them. Some authorities allocate their social services department a quota whereby rehousing is defined by that department. Others enter into understandings with housing associations, with the association making the choice under guidelines approved by the council. In some areas the local councillors wield a measure of authority, with up to a third of all allocations being decided by the housing committee.

The key to the system in all cases lies in the use of discretion by the local authority. Discretion is a feature of all administrative systems but in housing, where the allocation of a home is one of the greatest favours the state can bestow, it has a devastating effect. The wide measure of

discretion in housing allocation is often justified in terms of the flexibility it gives to enable the administration to take account of special factors and to allow a degree of sensitivity. Our experience has been that examples of such sensitivity are rare. Discretionary power, is mainly used in the interests of the administration itself, serving both ideological and managerial ends. The effect is to obscure the basis on which decisions are made and to weaken the ability of prospective tenants to challenge them.

Power through discretion

The extent of the impenetrability of many housing departments is revealed by two examples from Canning Town.

Mr Kay asked the centre to advise him in his struggle to get council accommodation for his family. A shift worker, he lived in one room with his wife and two children. The household had been registered on the borough housing list for some time. Mr Kay himself suffered from a painful back illness that was aggravated by the poor living conditions. He had made an application to the council for rehousing, setting out his circumstances and had been told in February 1974 by the housing department that his case would not be considered until December. They added that there was 'no machinery of appeal to committee'.

In the summer, Mr Kay contacted the centre and enlisted the help of two local councillors. They learnt in September that the housing department had approved the Kays as a 'special case' in May, but had not told them. It only then became clear that 'approval' was only the first hurdle; there was a further waiting list of 'approved' cases and it was necessary to argue for priority again and supply further medical evidence. When the centre contacted the allocations section a week later, staff were told that additional evidence would have no immediate effect, since allocations had been suspended due to staff shortages. A formal enquiry on this point produced an abrupt denial.

Finally in February 1975 the Kays were given a council house. In the months that the centre had been in contact with him he had to call twenty-eight times, eight letters and twice as many phone calls were made on his behalf. Two local councillors had added their weight to the campaign. Without this help there must be doubt whether the Kays would have left their single room to this day.

No appeal

The Normans, another Canning Town family, met with confusion and obstruction in another part of the system. Mr Norman lived with his four children in two rooms and had reached the top of the appropriate section of the council waiting list. However his case was complicated by the fact that his estranged wife lived in a small cottage elsewhere which he owned. Having spent nine months getting his separation position clarified with the housing department, he met with yet another problem. As a property owner, and even though the value of the property was below the agreed limit, he was told that his case would have to go before the housing committee. There was no way in which Mr Norman could find out what was discussed at committee. He was not entitled to see the report written about his household arrangements nor was he entitled to nominate a representative to speak for him. He could not even listen to the deliberations since the item would appear on the confidential section of the agenda. The only way to have any kind of representation was through a sympathetic councillor and the centre found one who was prepared to be briefed and to speak to the case.

The next committee meeting was due to take place on October 27th but two weeks before, on October 14th, Mr Norman received a letter from the housing department part of which ran: 'full details of your case have been reported to the Town Planning and Housing Committee but I regret to say that having regard to the overall circumstances of your case, the committee did not feel able to approve that rehousing should take place at this stage'. No further explanation of this seemingly final and rapid decision was given. On October 27th Mr Norman's case appeared after all on the Housing Committee agenda. The councillor was taken by surprise and the decision – which had been anticipated two weeks before – was taken. The family is still living in two rooms.

These examples are by no means exceptional, their volume was so significant that the Canning Town centre commented in its 1976 report:

> In the experience of the centre there is not adequate explanation given to applicants (to the housing waiting list) as to what information they are expected to give, when decisions will be made and how long the process is likely to take. Many tenants do not understand the points system, how it relates to their circumstances, are not informed of the processes before they are allocated accommodation, nor what information they have to give . . . before their application is approved.
> *Canning Town Information Centre Report* 1976

Nor is this a marginal issue. In Newham 26% of the allocations from the housing waiting list in 1974/5 went to 'special cases'. Given this lack of access to, and the arbitary nature of, decisions, puts immense power into the hands of housing officials.

The informal and biased way of dealing with appeals has already been noted. A study of procedures carried out by Oldham CDP summarises the position bluntly:

> An 'appeal' is not a formal procedure, there is no defined mechanism of appeal, what exists as an appeal mechanism, and this can only be detected by observing such activities over a period of several weeks, is a continuing dialogue between various officers and tenants, and between officers and other officers, about the merits of cases and the problems which surround these cases . . . Exceptional cases may be taken to the Deputy Housing Director, to the Director, and, in 'very exceptional cases', to the Housing Committee, for a decision. Who exercises the discretion

then is itself a matter for some discretion.
Lewis Corina: *A study of Housing Allocation and its effects*
Oldham CDP 1975

Under these circumstances, although centres cannot be said to have any right to present a case or to expect consistent treatment, they are often able to develop an informal channel of appeal simply by noting patterns of seniority in the housing department and pushing problems up this ladder.

The medical factor

The link between bad housing and bad health is well known and accepted. For most people the extra argument needed to present their case for rehousing is a medical one, either to establish that poor housing conditions cause or compound a particular condition or that the pressures of bad housing create adverse social or psychiatric effects. Here too the mechanisms are haphazard and mysterious to would-be tenants. They expect that the evidence will be weighed up on medical grounds and considered sympathetically particularly as this job is done by the community physician, a state official, and not the Housing Department.

Our evidence shows that even in medical cases no rational system exists. The community physician decides who is in 'medical need' according to how much housing is available, accepting cases in one year that in others would be rejected. Since nearly all applicants are advised to 'get a doctor's note', the room for discretion is high. Decisions cannot be challenged in such a technical field. In effect the housing department keeps the community physician abreast of the housing situation. The priority afforded on grounds of medical evidence is then trimmed to fit this situation. If suitable properties are not 'available' then approval for rehousing is not given. The discretionary powers of the community physician are used to enforce, a tight, secret, rationing system.

The ideology of the queue

The housing list is one of the most potent symbols in municipal ideology. The very term conveys the idea of an orderly queue moving slowly forward, those at the front being rewarded for their patience by being able to move out of slum accommodation into a decent new home. CDP teams have found that this idea is widely accepted by the community at large as well as being constantly put across by the local authority. In practice however, it is clear that the idea of merit, the reason for getting to the front of the queue, is not solely based on need. For example most of the authorities we have considered lay great stress on housing local people at the expense of newcomers, on rewarding length of time on the list and determining 'bad' tenants. The irony is that since comparatively few people get housed from the top of the lists anyway, the values built into them have little relation to housing prospects.

In effect the housing list serves to keep people in their place. The projection of the myth of order reduces the problem of how many houses are built to one of getting ahead in the queue. Anger is concentrated on people thought to be 'jumping the queue' or veiled suggestions that progress depends on bribery, political affiliations or just 'being in the know' rather than on the inadequate building programmes. Over the recent years there have been few protests at the mutilation of the building programme from those waiting for the houses that will now never be constructed.

Beating the system

In spite of the official place-in-the-queue ideology put forward by councils and seemingly endorsed publicly the only way to argue for rehousing is to set out to press an individual claim. Faced with unknown procedures, would-be claimants have to marshal a comprehensive case seeking help wherever they can. Letters from doctor, social worker and psychiatrist are useful, the active interest of a councillor helps, advocacy from an advice centre is an advantage. Persistence, not merit, is rewarded and by proving not only housing need but also a capacity to cause trouble, rehousing often follows.

The prospective tenant is often caught, inadequately housed but pressured from two sides. On the one hand getting on – and getting out – is associated with becoming an owner occupier through buying a house and getting a mortgage; on the other, nomination to a decent council place is the goal. Tenants who cannot get a house either way feel that this is due to their own failure to make money or to represent their needs. It is not the failure of government or local authorities to build enough houses. North Tyneside's chief housing officer stressed this in his 1975/6 report.

Increasingly the housing market is moving into two sectors; the owner occupier and council housing. Those who are unable to satisfy their housing requirements by owner-occupation find increasingly that their only alternative is the tenancy of a council house.
North Tyneside MDC, Chief Officer's Housing Report 1975/76

Efficient management

Local authority housing departments are not simply concerned with who should get council houses and how to cope with the overwhelming demand, but also with where to put prospective tenants. In deciding what kind of property to offer them, the interest of the housing department is not so much with meeting tenants needs, as with minimising their own management problems.

Increasingly urban housing departments find themselves in a state of organizational crisis. The general pattern is familiar; the backdrop to the crisis lies in the continuing lack of commitment to housing from both central and local government, reflected in the persistence of slums, long waiting lists and the intense competition for council housing. In recent years the spectre of a financial crisis has come to haunt departments as high interest rates have pushed up debt charges on their building programmes to record levels, a problem worsened by recent cuts in public expenditure. And the physical housing stock councils do own, presents ever increasing problems through its sheer size, the undesirability of much that is badly built or designed and a mounting difficulty with repairs and maintenance. The consequences within the housing departments are internal cost cutting, understaffing and higher work loads and a consequent low morale.

In this situation efficient management means reducing paperwork, avoiding having to undertake repairs and minimising rent arrears as far as possible. It is no surprise, then, that the experience of project information centres shows local authorities using their discretionary powers in housing allocation in one direction; more to control and ease the departmental crisis, than to lean sympathetically and flexibly towards the needs of the individual applicant or tenant.

Problem families

Most local authorities operate a grading system for their tenants. It usually boils down to a rough and ready scheme for directing the low paid and 'problem families' to the worst accommodation. The managerial advantages to the authority are clear. The cheapest accommodation involves the least risk of high arrears, the lowest commitment to rebates. Councils do not usually admit to a grading policy although local people usually know very well what is going on.

Personal assessments of prospective tenants are made in the first instance by the housing visitor. It is probably rare to come across a comment as blunt as 'this is a good house, do not let it to a scrubber' which came up in one area, but informally authorities admit that they can and do isolate certain families and categories and assign them to inferior property. Applicants are not told of the basis of the assessment, do not see the housing visitors report and there is no right of appeal. The system leaves too much scope for personal prejudice and unconscious bias to be acceptable.

As well as reducing a councils costs and difficulties, the 'problem family' typecast helps to reduce a general social crisis, the shortage of housing, to one of personal deficiency. It would be wrong to believe that the 'problem family' syndrome, arises simply from the day to day experience of local authority officers. It has been fostered by a fabric of sophisticated theory and research which seeks to throw the responsibility for poverty back on the people themselves in terms of inadequacy or transmitted personal deprivation.

Pressure to conform

Although the grading system is mainly directed against the least well off, housing departments have developed a range of practices designed to ensure that households agree to live where the authority believes they should live, rather than where they want to go. Much council housing is not popular. An offer of a council home is a once in a life time chance not to be wasted by going to the eighteen storey of a damp-prone tower block. In Newham for example, 43% of initial offers are turned down because the accommodation is unacceptable, usually because it is in high rise blocks or in an inaccessible part of the Borough. This rate is not unreasonable or unusual, but it creates additional administrative work for the council. In response to this the council decided in 1975 to change its rules reducing the element of choice that tenants had hitherto enjoyed. The officers reported:

> It is held that the reason for this situation is that, as housing conditions in the Borough have improved, so the hopes and inspirations regarding type, location and the general environment in which they would like to live has risen accordingly . . . In many cases the reasons given for refusal of accommodation are not, in fact, the real ones but those which it is anticipated will be most acceptable to the Department and least likely to prejudice a further offer of accommodation.

and concluded:

> It is therefore recommended that in all cases where an offer of accommodation is refused for any reasons other than that it is unsuitable, further consideration of the case should be deferred for twelve months.
> *Report to the Housing Committee,* Director of Housing, London Borough of Newham. 1975

This recommendation, which was agreed, puts much more power into the hands of the administration. They are now able to choose the accommodation that they think is suitable for a particular family *and* decide if the refusal to take it is justified. The council had used its powers to change the rules to face a crisis; the problem was not that people were refusing offers unreasonably, but that the council owned a legacy of inadequate and unwanted accommodation. In North Tyneside, the council have exerted similar pressure. Eviction has been threatened in cases where people being rehoused through slum clearance or improvement schemes refused the alternative accommodation.

Coincidence allows us to see the consequences of such policies in action. A caller at the Canning Town centre refused an offer of a flat because she found evidence of bug infestation which she suspected the council knew about but would not admit to. Her application was then 'deferred' for a year, according to the new policy. A week later the centre was asked by another caller to help her gain compensation from the council for the infestation of her furniture with bugs only a week after moving home. The two callers had been offered the same flat. The first caller had been completely justified in her refusal, but had lost her chance of a home for a year.

Controlling demand

Administrative rules and procedures are not only effective in manipulating the housing stock for management reasons, but also for controlling the actual demands made on the housing department. In discussing the management of special cases earlier, we pointed to some of the ways in which the uncertain and arbitrary nature of house allocation was used to keep the queue in line and made reference to the complicity of doctors in the manipulation of medical need. We now turn to the way the demand for housing is apparently reduced by keeping households out of the reckoning completely.

Recent legislation has reduced local authority obligations to the homeless. The National Assistance Act 1948 was amended by the Local Government Act 1972 changing a local authorities *duty* to house those in urgent need to a *power* to do so. Despite reassurances, the implications of this change have still not been clarified. Although local authorities continue to recognise their obligation to the homeless, their discretion lies in just who they define as homeless. The true position can be inferred by reading carefully between the lines of this extract from a director of housing's report in June 1976.

> despite an apparent increase in *homelessness* in other boroughs there has been no increase in the number of *rehousings* by this authority over last year's figures – I would point out that all applications on the grounds of homelessness are carefully and fully investigated before an undertaking is accepted. What that last phrase means in practice can be seen from the figures presented for the previous year; of 830 'homeless presentations' 616 were dealt with as 'no action necessary *or referred elsewhere*'. (our emphasis)
> Director of Housing, London Borough of Newham, *Report to Committee,* June 1976.

In some cases authorities not only exercise discretion extremely conservatively but get as close to ignoring the law as possible in their efforts to minimise their work load. The Benwell community lawyer took up the case of a homeless family in an adjacent local authority area. This council had adopted a policy of giving no help at all to households who had been evicted on account of rent or mortgage arrears. In this case they had put the family literally onto the street exposing their belongings and furniture to weather and theft. After failing to get any movement the lawyer wrote in a letter to the authority 'you appear prepared to flaunt every statutory provision and the spirit of the guiding circulars in your treatment of this family'. Harsh treatment of this kind acts as a deterrent, not to homelessness, but to people making demands on the authorities that in law they should help.

The lengths to which some authorities will go in attempting to suppress demand and conceal homelessness is revealed by a recent policy change in Newham. Young families find it increasingly difficult to set up on their own. Owner occupation is financially out of the question. Council housing is a possibility but only given time and the right level of points. In the meantime the only solution is to live with parents. Often this means splitting the family up as well as creating overcrowding. In these circumstances it is no surprise to find many households reaching breaking point.

> Since the responsibility for dealing with homelessness in the borough was transferred from Social Services to your committee, it has been observed that the number of cases where a council tenant evicts a lodger or member of the household is increasing . . .
>
> It is now quite apparent that persuasion and conciliation is not adequate and it is essential that the staff doing this work should be able to bring judicious pressure on tenants who are adding to the Borough's already very serious problems of homelessness.
>
> It is, therefore, recommended that unless very serious overcrowding exists, a tenant who has evicted any members of his household, whether they live at the address *with the council's permission or not,* must be instructed that they must re-admit the evicted persons and failure to do so would be prejudicial to their own tenancy.
> Director of Housing, London Borough of Newham *Report to Committee* October 1974

To hide the real demand for housing, the council use the threat of eviction to force families to house their own children.

Political values

The extent to which the housing allocation system can be adapted to meet the needs of the local ruling group is most clearly revealed, however, when the issues involved are explicitly political ones. The capacity to change the rules and exercise discretion at a local level has made it possible to bring in clear political values without any public discussion or knowledge.

In one area the council realised that on housing need grounds they would soon be rehousing a significant number of Asian families. Having settled in the area and only able to get the worst accommodation, these families would be at the top of the housing list as soon as the required five-year qualification was reached. The Labour-controlled council stopped all rehousing from the list and devised a new housing list scheme to give more weight to people with long local connections. The actual reasons behind the changes would probably never have been known if the chairman, in introducing them to the press had not blurted out 'if we had not taken this step we would have been rehousing nothing but Asians in five years'.

The Chairman of Housing's lapse produced a local storm. He was forced to make a partial retraction of another claim that the area's housing problems could be ascribed to immigrants. Both a national television programme and several national immigrant groups investigated the background to the whole furore. Nevertheless the policy change went through. And, six months later a senior officer of the housing department, talking to a CDP worker, expressed his and the department's view that technically with a now more optomistic lettings situation, residence qualifications could be dropped to 3 years from 5. But of course, he added, for political reasons such a change would never go through.

Fighting back

In the summer of 1971 tenants on an isolated council estate in Canning Town, realised that council promises to rehouse them within two years would never be realised. Forming a tenants association, they tackled the council on its broken promises, lack of repairs and on the low status their estate was given. The council denied all the allegations and the Director of Housing produced soothing reports to refute the tenants claims. Under pressure from the tenants however, the council collapsed in less than a year. The Leader denied his own official reports paragraph by paragraph. All the tenants were rehoused and the flats where they had lived were rehabilitated.

Such examples are rare. Rare because the system of allocation of housing acts to deny demand, individualise applications and prevent organisation around the underlying issues. To get a house you need to prove your need is greater than that of the next person on the list. If you fail, it is your fault. The system could not have been better designed to deter collective action. If there are no clearly laid down rules, they are harder to challenge. Rights and wrongs cannot even be argued at the appeal stage. Even who to make your complaint to is unclear. And all the while fear of losing you place in the queue acts as a strong deterrent to militant action. Any public discussion of housing policy becomes lost in a sea of administrative decisions. Fewer houses built means simply that 'severe medical need' or even 'homelessness' must be redefined, but as the definitions are never made public, they are rarely challenged.

7 The social security system

The feature of Britain's Welfare State which has probably attracted most criticism and aroused most controversy is the social security system. The basis of the present system arose out of the government-commissioned Beveridge Report of 1942, although it was not until 1948 that the Labour Government passed the National Insurance, Industrial Injuries and National Health Service Acts and presented a National Assistance Bill to parliament, all of which owed a great deal to the Report. By the early 1960s, academics discovered that despite the new provisions, widespread poverty still continued to exist throughout the country. Since that time, the attack on the system of guaranteeing basic income levels has grown, not only from countless academics and politicians, but also from organisations like the Child Poverty Action Group and Claimants Unions.

The attack is on two fronts. First, that as a machinery for getting funds to people living below subsistence level, the social security system is a failure. Benefit levels are too low, many people fail to claim what is due to them and there are unreasonable difficulties facing those who do claim. The second line of attack is directed at the social security administration itself. The way in which benefits are given, it is argued, attacks claimants dignity, superimposing approved values like thrift and industry onto what is essentially a cash transaction and creating feelings of guilt and inadequacy among claimants often at a low ebb in their lives.

Many of the most pressing problems brought to CDP centres have been concerned with the malfunctioning of the social security system. Many people have visited centres confused and frustrated by it. With a working knowledge of the complex rules and regulations, centres have given advice on the availability of benefits and have developed considerable expertise in advocating claimants' cases with the local offices of the Department of Health and Social Security and in representation at Appeal Tribunals. Centres have found little evidence that criticisms over the past years have brought any significant changes in the social security system. On the contrary their experience, and that of the people they advice, continues to bear out the criticisms made by others more than ten years ago.

Two tier system

From Beveridge in 1942 to the present day, the declared aim of the Social Security system was to ensure that in times of birth, sickness, unemployment, retirement and death, families would receive sufficient financial support to keep them going. Subsistence poverty would be abolished by providing a very carefully calculated minimum sum. The main method was to be collective security, a horizontal redistribution of resources, achieved by a system of compulsory contributions.

Beveridge produced a two tier system. National Insurance, funded from contributions from workers' wages, provides benefits on a higher level. National Assistance, renamed Supplementary Benefit in 1966, funded through taxation, was intended as a safety net for those who for some reason could not obtain benefits, yet were in danger of becoming destitute.

It was originally expected that National Insurance benefits would be sufficiently comprehensive that there would be decreasing reliance on the National Assistance scheme. In practice, far from being phased out, more and more people have had to rely on the safety net of Supplementary Benefit particularly those who are old and the long term unemployed. The position has been further complicated by the introduction of additional means-tested benefits like rent and rate rebates and free school meals for which both employed and unemployed are eligible.

Each tier has a separate administrative system. National Insurance, available to all who have paid contributions, is administered within a system of more or less formal identifiable rights. These are complicated and there are often difficulties in establishing claims, but there is a framework through which to follow cases with an appeal system governed by precedent. Working women taking maternity leave or workers unemployed or sick for a short time can expect to receive their money as of right without stigma. In contrast the Supplementary Benefits system rests heavily on the exercise of discretion, putting the responsibility for making an award onto an official in the local office. Complete information on eligibility is difficult to come by and, whilst a limited appeals machinery exists, it is heavily weighted in favour of the Department. Under

these conditions making a claim for Supplementary Benefit becomes more like making an appeal to charity than insisting on rights.

This division in the ways of dealing with National Insurance and Supplementary Benefit claimants institutionalised the old idea of a division between the 'deserving' and 'undeserving' poor. Beveridge himself was quite clear about the distinction.

> Assistance will be available to meet all needs which are not covered by insurance. It must meet those needs adequately up to subsistence level, but it must be felt to be something less desirable than insurance benefit; otherwise the insured persons get nothing for their contributions. Assistance therefore will be given always subject to proof of needs and examination of means; it will be subject also to any conditions as to behaviour which may seem likely to hasten restoration of earning capacity.
> Sir William Beveridge: *Social Insurance and Allied Services,* HMSO 1942. (paragraph 369)

This notion seems still to influence perceptions of the poor and their treatment. Claimants themselves may not always feel stigmatised, but many people on the brink of falling into the safety net themselves regard their fate as being somewhat disreputable. The myth of division is forcibly presented by the press with selected stories of scroungers living lives of luxury on social security and fed on local rumours that one group of claimants – often black – are getting more money than anyone else. The reality of poverty, stress and need is masked by a myth of leisure, luxury and greed. The least well off become caricatured as scapegoats to divert and discipline those better off. These divisions are not accidental. Their persistence can be traced back to the nature of the organisation structure through which benefits are distributed.

Denial of rights

In writing about the system of council house allocation we showed how the system is administered in a way which serves managerial and ideological functions for local councils, under the guise of fairness and rationality. Lack of information, confusion about procedures, the discretion of officers and the nature of the appeal system are the mechanisms which enable the authorities to take arbitrary decisions without being challenged. Housing procedures are not standardised and are left to each council to determine. The Supplementary Benefits System on the other hand, is more formal. Its structures are laid down in legislation and its broad lines of operation are uniform across the country. Yet in operation the two systems have a great deal in common.

Lack of Information (b)

A central feature of the Supplementary Benefits system is that although there are basic rates of benefit for broad categories of claimant, many additions and subtractions are made to take account of the circumstances of an individual claimant. The resulting basic payment is arrived at by an arithmetically simple but quite involved computation. It should be possible for claimants to check the calculation to ensure that they are getting the correct amount, but it is clear that most claimants do not have sufficient information to make their own calculations and very few are therefore able to check that they are getting what they are entitled to.

A small survey of supplementary benefit claimants in Coventry illustrates the point. Each claimant in the sample was asked 'Do you think you get the correct amount of supplementary benefit?' Out of forty respondents only two were certain that their benefit was correct. The remaining thirty eight simply did not know; seventeen did not know if it was correctly calculated or not, eleven thought it was incorrectly calculated and ten assumed that the Supplementary Benefit Office would not make a mistake. No one in the sample suggested writing to the local office asking for a written statement of how their benefit was calculated. None knew that they had a right to get such a statement.

All projects report a steady level of error. Further work in Coventry showed that nearly half of the people interviewed did not get their full entitlement. In Newham, the centre helped to recover more than £800 in back payments for a man whose records had been lost in a dead file. As basic levels rose his payments were pegged at their original level. He had only asked for help when he was on the point of eviction for arrears of rent.

Exceptional needs

One of the most contentious areas of the use of discretion lies in its application to 'exceptional need'. As the basic rates of benefit have fallen relative to average wage levels, more claimants have to rely on exceptional needs payments to survive. Awards can be made either as an 'Exceptional Circumstances Allowance' which is a regular addition to the weekly benefit or as an 'Exceptional Needs Payment', a once-off lump payment to meet specified needs. In practice the 'right' to supplementary benefit is so different to the right to national insurance, that it is doubtful that it can be called a right at all. Under the National Insurance system the outcome of a claim in some crucial areas such as unemployment benefit rests on the judgement of insurance officers. They may have to decide for instance whether unemployment was involuntary. The decision may seem arbitary but it is taken against the background of extensive and publicly available regulations. In contrast, the officer dealing with supplementary benefits does not even have these constraints. Beyond the provision of the flat rate there are few binding regulations governing payments to the claimants. The officers can claim the authority of the 'A code', a comprehensive but confidential document setting out guidelines on the use of discretion, in making their decision but this is not open to challenge from the claimant. Questions like whether or not to make an exceptional needs payment or whether to impose

voluntary savings are all left in the officer's hands. The Social Security Act 1966 is sometimes couched in the vaguest terms.

> Nothing shall prevent the payment of benefit in an *urgent* case, and in determining whether any benefit is payable . . . and the amount or nature of the benefit, the Commission shall not be bound by anything (basic entitlement) or in any regulations made under this Act *which appears to them inappropriate under the circumstances'*. (Our emphasis)
> *Social Security Act* 1966

For most people the combination of confusion and discretion creates conditions where the amount of benefit seems more the result of fortune than reason. CDP files are filled with examples of fights for additional payments for exceptional need. They record DHSS refusal often to follow their own guidelines and pressure put upon claimants to accept second hand or substandard replacements for worn out furniture and equipment. On appeal the tribunal is inclined to support an original decision or at best endorse a compromise below the amount really needed.

Abuse of powers

The muddled relationship between claimant and Supplementary Benefits Commission makes it easy for mistakes to be made. There is some evidence that officers are prepared to exceed their legal powers in attempts to force claimants to conform with departmental wishes. Under the Social Security Act (for instance) the Supplementary Benefits Commission is entitled to recover expenses from a person who is liable to maintain a claimant. In practice the Commission prefers to pressure the claimant, usually a woman, to take out maintenance claims against former partners to provide for their child, but there is no obligation do do this. In a case in Coventry, the Supplementary Benefits Commission stopped payments to a woman altogether when she refused to take out a maintenance claim. The community lawyer was able to bring pressure to bear on behalf of the woman and benefit was restored. It took further pressure for the arrears built up from the stoppage to be repaid, in the meantime she had been evicted from her accommodation.

The appeal safety valve

Centres have found many people who have been refused payments, reluctant to take their case to appeal. They feel that having received little sympathy from the DHSS so far they are unlikely to get any further when they come up against the DHSS in another guise. However centres have had considerable success when they have taken cases, finding that, despite the intended informality of the supplementary benefit tribunals, being represented improves your chances of success considerably. Nevertheless they have found the appeals system unsatisfactory in many ways.

The tribunal consists of three people: one to represent 'work people', selected by the Secretary of State from amongst a panel of names put forward by trades councils; one selected by the regional DHSS office from a panel of names of people of 'good standing in the local community' forwarded by local social security offices, CABs, religious organisations and so on. The chairman is selected by the Secretary of State, most frequently from amongst the second list, because it is these people who have the necessary free time. In addition, the clerks are appointed by the DHSS. As DHSS employees they are familiar with the issues and are often well aware of the potential significance of tribunal decisions. Not only does this mean that there are normally two representatives from a group of people unlikely to understand the position of claimants, but the trade unionist, as an employed worker, is likely to be as removed from the claimant's situation as the other members. Although meant to be 'informal', tribunals fall between two stools. They are still intimidating to many people, yet the decisions made are 'informal' in the sense they are not governed by precedent, and in practice tend not to be very consistent.

The very success of the Centre workers reveals the lack of certainty in the system and the lack of clear criteria on which eligibility is assessed. If the implicit supplementary benefit rules, as judged by SBC practice were made explicit and publicised there is no doubt that there would be an outcry. The role of the appeals system appears to be to provide the safety valve – absorbing the protests of the most insistent whilst deterring the vast majority.

Overlapping powers

People forced to depend on means-tested benefits do not only have to cope with the supplementary benefits office. To attempt to obtain what you may be entitled to it is also necessary to tour the Housing Department (rent rebate), the Treasurer's Department (rates rebate), Education Department (school meals, school uniform, educational maintenance grant), and the Social Services Department (help for the sick and disabled, nursery provision, help with bills). This process is not just time consuming and frustrating. The extensive administrative divisions mean that all too often needs are left unmet. Departments with overlapping *powers*, but not *duties*, frequently deny their responsibility, while acknowledging the need. Precisely because need is not acknowledged to be the remit of any particular department, the claimant has no recourse within the structure to any appeal mechanism.

One constantly recurring problem in many areas is the refusal of both the DHSS office and the local authority Social Services department to pay electricity bills and people who cannot afford to pay are frequently left without heat or light. A woman in Canning Town, for

instance, received a final demand for £200. Her husband had left her and she could not afford to pay it, so in September 1975 she was disconnected. The DHSS refused her an Exceptional Needs Payment to pay the bill and get it reconnected. Social services also refused her any assistance despite the fact that she had four children and winter was approaching. An appeal against the DHSS ruling was submitted in September but was not heard until November. Meanwhile the DHSS and the Social Services Department (each of whom had the discretion to pay the full bill) tried to agree a formula for paying the bill between them. When the appeal was heard, however, the ENP was still not granted. Despite having been told that the social services department had refused to help, the Tribunal took their decision on the grounds that 'the social services are unaware of the problem with this family'. There was no doubt that both departments recognised the woman's need but there was no further legal action open to her. A year later, the account remains unpaid and the supply disconnected.

Similar conflicts occur between one government department and another.

Mr and Mrs H. have three young children. In October 1973 Mr H. was being trained at a government training centre and being paid a training allowance of £18.80 tax free. They had no other source of income except £1.90 family allowance.

Mr H. had previously been in business on his own account and had incurred quite heavy debts as a result of which the business had closed down. In accordance with government policy he went along to the training centre to learn a trade but soon found that the government did not give him enough money to enable the family to survive. At this stage, the family's income was 89p a week more than it would have been had they been in receipt of supplementary benefit. Nevertheless, there were debts to be paid which had accumulated before Mr H.'s business had collapsed and creditors were pressing for payment. Mrs H. was finding it very difficult to manage and matters were not helped by the fact that the electricity board (who were one of the creditors) had set the pre-payment meter to obtain from it over £1 per week above the amount needed to pay for the electricity being consumed.

At this stage Mrs H. sought help from the community lawyer who wrote to the electricity board asking them to be a little more generous and also asking for a statement showing how the alleged debt was made up. As a result of this statement Mrs H. was able to prove that around £20 of the total debt was not attributable to them and the board duly deducted this from the amount owing. They refused, however, to take less from the meter each week.

The community lawyer also advised Mrs H. to apply to the SBC for an exceptional needs payment so that she could obtain much needed bedding and clothing for the children. A comparison between the clothing the children actually had and the standard clothing list supplied by the Supplementary Benefits Commission revealed that Mr and Mrs H. would need a grant of over £40 to bring them up to the minimum standard.

The application was refused and an appeal duly lodged. The reason given for the refusal of the grant was that Mr H. was in full-time remunerative employment. The community lawyer therefore advised Mr H. to apply for Family Income Supplement and this was duly done. However, this benefit was also refused, on the grounds that Mr H. was *not* in remunerative full-time work'.

At the appeal against the refusal of the exceptional needs payment, the anomaly was pointed out. The tribunal were also reminded of their power to make a payment under section 13 of the Ministry of Social Security Act 1966, even if they did consider that Mr H. was in full-time employment. The tribunal made an immediate award of £20 for bedding and after a visitor had called, a further payment of £25.55 was made.

Subsequently the appeal against the refusal of Family Income Supplement was heard. The community lawyer pointed out to the tribunal that 'full-time remunerative *work*' was not the same as 'full-time remunerative *employment*' and argued that there was no reason why someone in Mr H.'s position should not be entitled to both an exceptional needs payment and to Family Income Supplement. The amount to which Mr and Mrs H. were entitled was £2.90 per week.
Nick Bond and Robert Zara: *CDP Legal and Income Rights Programme: Casework, Campaigns and Adult Education.* Coventry CDP 1975

This family eventually established entitlement to both benefits. These clashes of departmental interest usually take place with the needs of the claimant coming behind those of the department. The possibility of using even a limited appeal machinery is denied since the dispute lies between departments. The stress on claimants, the only party in real need, can be enormous for example when they are homeless. Housing departments are responsible for accommodation but Social Services have an overall responsibility and can intervene with temporary – usually bed and breakfast – accommodation. On the other hand DHSS are empowered to make urgent payments and for which the SBC has laid down a policy for payment. Frequently the homeless person is again caught in the middle. Both Social Services and the DHSS will refuse help. Often though neither has a duty to help, departments will deny even that they have the power to do so. Not only has the homeless person no clear rights, they have no mechanism of appeal.

Values and control

The control of information and the use of discretion puts enormous power into the hands of the Supplementary Benefits Commission. The overall pattern of decisions is not arbitary, but usually quite consistent. The values of the dominant interests in society are superimposed and reinforced throughout the social security system. The system in effect regulates behaviour and rewards the attitudes it wishes to foster.

Work ethic

When drawing up the National Assistance Scheme, Beveridge made his own values clear;

Assistance will always be given subject to proof of needs and examination of means; it will be subject also to any conditions as to behaviour which may seem likely to hasten restoration of earnings capacity.
Sir William Beveridge *Social Insurance and Allied Services.* HMSO 1942

Getting people back to work is a priority for both National Insurance and Supplementary Benefits schemes. Invariably discretion is used to foster this aim. Decisions on eligibility

for unemployment benefit are used to get workers to stay in work or back to work. Unemployment benefit ceases after twelve months. Strikers find it difficult to get benefits for their households. Refusal to go to a job is grounds for loss of benefit, as is 'voluntary unemployment'. Criteria which are all determined by the insurance officer.

A young labourer in Newcastle, for instance who had suffered a serious fracture which took a long time to mend, had his invalidity benefit stopped because he was deemed technically capable of doing light clerical or messenger work and despite the fact that the fracture had not healed. He had of course by now lost his old job, which he would anyway not have been able to carry out, and in an area of acute unemployment there was unlikely to be a job which did not involve lifting anything. In practice, all it meant was that the rules had transferred him from invalidity benefit to supplementary benefit at a much lower rate.

The dominant values can be seen even more clearly in disputes between worker and employer. Unemployment benefit can be stopped for up to six weeks on grounds of industrial misconduct. The case for industrial misconduct is usually established from the claim of the employer and although it can be challenged over time, the worker is in the position of being assumed to be guilty.

The provision of benefit to strikers is another area where attitudes become apparent. Section 8 of the Supplementary Benefits Act 1976 has the effect of excluding the right to benefit from a person involved in a trade dispute. Thus even though the claimant is eligible on the basis of their need they are disentitled to benefit and officially kept below the poverty line. On top of these formal rules, however, the discretionary system gives another turn to the screw. Although section 8 excludes strikers from benefit, it does not exclude their families. In addition, section 4 allows the DHSS to make payment of benefit in an urgent case, even to a single striker, to cover outstanding debts or other commitments. Yet strikers in a number of CDP areas have had considerable difficulty in getting many DHSS officers to process their claims or even acknowledge a potential entitlement under section 4.

Voluntary poverty

The idea of the 'undeserving poor' who must be encouraged to budget and save reoccurs in the imposition of 'voluntary savings'. A person on supplementary benefit will apply for a particular grant – commonly clothing or help with a fuel bill. The need will be recognised by DHSS but instead of paying out a straightforward lump sum, they will frequently make the grant on condition that it is repaid by deductions from future weekly payment. Thus the grant becomes a loan. The claimant, who is probably told it is normal procedure, is hardly in a fair position to refuse the offer and a 'voluntary' deduction is agreed. A variation on this is to grant an Exceptional Needs Payment but oblige the claimant to agree voluntarily to future deductions to safeguard against further hypothetical claims and bills. A case from Newham makes the point. Mr Salmon came to the Centre because he was not sure he was getting the right amount of money. The centre worker found that he was being underpaid £4 per week. When this was challenged the DHSS explained they had arranged with Mrs Salmon to deduct £4 per week as voluntary savings towards gas and electricity bills. Mr Salmon objected to this for two reasons. Firstly that agreement had not been made with him and he had no knowledge of it. Secondly that electricity only cost him about £1.50 per week, and his gas supply was on a coin slot meter. Like all 'voluntary savings' this exercise of discretion meant that Mr Salmon had been living below even the official poverty line.

Taking on the system

It has already been noted that centres have found that representing claimants at appeals has advanced their chances of success. CDP workers have also established that their scrutiny of the workings of the local office has helped in a range of issues from tracing a lost giro payment to getting a detailed internal review of procedures following a complaint. Several centres have also pressed for changes in the system itself. But DHSS failure to take account of continuous criticism, not just from CDP but organisations with a long history of campaigning like the Child Poverty Action Group, even at the most straightforward level – clarifying the rules, making more information available, publicising rights and entitlements – indicates that the government has been much less concerned about current arrangements than claimants are.

In 1972 Coventry CDP for instance, made seven very basic suggestions about how SBC practice could be changed in order to give claimants a better chance of obtaining their rights:

1. more effective internal checking that SBC officers are investigating claimants needs fully and ensuring they are met.
2. every claimant should be issued with a 'wage slip' stating how benefit has been calculated.
4. copies of the SBC Handbook should be on display in every local office.
5. the appointment of one or two officers in each local office to check that the SBC is not cheating claimants.
6. to avoid embarrassment and increase choice, parents should be given the option of cash instead of free school meals.
7. reasons for refusal of discretionary payments should be given in writing.

The recommendations were discussed at a senior level within the DHSS and given wide publicity. Only one, the wage slip idea, was actually taken up and this only to the point of running a pilot scheme in one or two offices.

More recently the Coventry Centre, with many other organisations, has returned to the attack by advocating a

computerised passport system in which eligibility for benefit would be computed at one central office, clarifying eligibility increasing accessibility, and simplifying administration. But several years of campaigning has met with little response from the DHSS. The DHSS appears to have a vested interest in the current administrative mechanisms. As the Oldham project put it:

Whilst the DHSS maintains its position as the arbiter of claims, I do not see what it has to fear by publicising the availability of such benefits. Either people are entitled to consideration of such help as of right or they are not – it would appear appropriate that the DHSS make up its mind . . .
Neil Shenton *ADNIC. A First Profile* Oldham CDP 1975.

Rights campaigns

Surveys undertaken in several project areas have confirmed the findings of organisations like the Child Poverty Action Group, that there is a widespread lack of knowledge about the availability of benefits. A survey done by the Coventry CDP in 1972, indicated that about 20% of those receiving supplementary benefit do not receive free prescriptions and free school meals, at least 25% were not receiving the Exceptional Needs Grants they were entitled to, and 7.5% fail to receive the Discretionary Weekly Allowances they should be entitled to. Even the calculation of basic scale rates appeared to be incorrect in one or two cases. All in all they estimate that at least 50% of claimants are not receiving all the benefits they are eligible for. The Batley project took a wider look at all means tested benefits in 1974. Their survey reported between 22.5% of eligible claimants not claiming free prescriptions and 75% not claiming education maintenance grants. Similar work was carried out in North Tyneside. An overall pattern of under-claiming has shown up wherever an assessment has been attempted.

In an attempt to improve take-up and to compensate for the deficiencies in DHSS information many projects have run special campaigns advertising the available benefits and encouraging people to claim. But project experience in 'welfare rights' campaigns has on the whole been disappointing. The North Tyneside CDP, for instance, recently undertook one of the most intensive campaigns of this kind ever launched in Britain. Posters, leaflets, stickers, press and radio reports and door-to-door visits were all aimed at advising people of the existence of certain benefits and encouraging inquiries and appeals. But, although the campaign stimulated a large number of inquiries which led to some short term improvements for local claimants, the project concluded that their overall achievement was only marginal.

For such an exercise to be repeated on a wider scale even if limited to deprived urban areas would be impossible in terms of expense and organisation, and any less intensive campaign would be likely to be correspondingly even less successful.
North Tyneside CDP, *Welfare Rights – The North Shields Campaign*, Summer, 1975

Similar conclusions were reached in Batley's 'Welfare Rights Campaign':

It just does not seem to be possible to increase take up beyond a certain critical point by the use of publicity methods, even when these come from a very immediate local level. . . Not only is it impossible to 'sell' a faulty system, it is wrong to try and overcome the obvious faults by sales techniques in an attempt to disguise those faults particularly in a 'community project' setting.
Batley CDP, *Welfare Rights Campaign, Interim Report, 1974*

Many reasons have been advanced to explain the gap between what people are entitled to and what they actually get and a lot of ingenuity has been spent in devising ways of refining the system of delivery. It remains clear however, that the overall rejection by working class communities of the system of paying benefits is defeating the stated intentions of the Welfare State. It is in this area more than any other that the contradiction between the expressed aims of the state and what happens in practice becomes evident.

Collective education and action

In response to the limitations of casework and take-up campaigns, many CDP centres have explored the possibilities of working through groups and organisations. The aim is to spread information about the availability of benefits, to use the strength of the organisation to press individual and collective claims, and to take up the wider issues which link claimants.

Several projects have helped, or have attempted to establish claimants unions. But faced with the powerful individualising and demoralising effects of the social security system, have found that such groups have run into difficulties in sustaining their activities and have never involved more than a small minority of claimants. Where projects have given support to organisations with wider interests, they have met with more success. In Paisley for instance, a one-parent family group, has combined pressing social security claims, with action on housing and nursery issues. It is significant, too, that the more successful 'take-up' campaigns have been those which took advantage of an existing network of community organisations. The Coventry project wrote:

In the winter of 1973 we became particularly concerned about the hardship suffered by pensioners in receipt of supplementary pensions because of their failure to claim heating additions to the supplementary benefit. Changes in the law which came into force in October 1973 made far more people entitled to these allowances and yet neither the national nor local Department of Health and Social Security had publicised this. Accordingly we convened a meeting of residents' associations from Hillfields, Wood End, Foleshill, Wilenhall, Stoke Aldermoor and Radford. At this meeting we explained how the SBC assess eligibility for heating allowances and as a result of the meeting, a campaign called 'Warm Up For Winter' was launched to encourage supplementary pensioners to claim heating allowances. The local newspaper did an article on the campaign explaining eligibility. Application forms were produced by us and distributed to pensioners by the various neighbourhood organisations mentioned above. As a result, several hundred pensioners received heating allowances and grants for warm bedding and winter clothing. The pensioners who took part in this campaign felt that there was a need for a city-wide organistaion of pensioners to help and advise pensioners about their rights. They called a meeting of representatives from all pensioners' associations in the city and we held a series of 'teach-

ins' for those representatives so that they could take the knowledge gained back to their various organisations.
Nick Bond *Knowledge of Rights and Extent of Unmet Need among Recipeients of Supplementary Benefit,* Coventry CDP 1973.

The greater the change sought, however, the bigger and stronger the organisation needed to bring this about. Here is another example of a campaign built out of frustration with traditional 'welfare rights' approaches. In May 1975, a group of community workers and tenants' representatives set up the Campaign Against High Heating Costs in Newcastle. Heating costs were rising far faster than supplementary benefit rates, people's debts were increasing, and for many the only resort was not to use essential fuel for heating and cooking. Information workers had of course encouraged people to claim extra payments from the DHSS or seek assistance from the Social Services Department, but with little success. The situation was made worse by the power given to the Gas and Electricity Boards to disconnect the supplies of debtors rather than pursuing the normal remedy of taking civil action in the county court – one 70 year old woman, registered blind, living by herself and dependent on a supplementary pension, had had her supply disconnected because of a £9 debt. The CAHHC has held a number of public meetings to organise support for a ten-point charter. Tenants' groups, environmental groups, unions involved in power supply, social work agencies were also contacted and in October 1975 the campaign affiliated, to the national 'Right to Fuel Campaign'. A big public meeting was held in February, laying the basis for a united campaign, undertaken with support from local MPs and Newcastle Trades Council. Publicity reached its peak in April when a local Fuel Action Week was held.

As a result of this and other action throughout the country, the government was obliged to at least look at the problem. A new code of practice has been produced by the Department of Energy which makes some concessions. One major significance of the campaign was how it managed to involve active trade unionists. An issue which had initially been a simple income maintenance problem of claiming an additional heating allowance had been developed to encompass the broader issues of fuel policy. Trade unionists working in the industry were equally concerned about the effects of a fuel policy over which they had no control. Similarly other union branches and trades councils were able to see the significance of the campaign to their own and their members' interests and fully supported it.

Some of the most successful collective action however on social security issues has been as a result of the provision of information on benefits to trades unionists when on strike.

This has been an important area of work in several CDP centres. this example from Coventry illustrates the role CDP Centres have played:

When 120 workers from Wickmans (a machine tool firm) went on strike in March 1974, we were contacted by a member of the strike committee for advice on strikers' rights to supplementary benefit. At our suggestion a small committee of strikers was rapidly formed to advise and assist the other strikers on claiming supplementary benefit. We met this committee at the home of one of the members within a few days of first being approached for advice. At this meeting, we provided the committee with leaflets we had prepared on the strikers' rights to supplementary benefit and were able to explain these rights and point out some of the commonly held myths about the supplementary benefits system and the importance of an active strikers' committee to ensure that all strikers received their rights in full. At this meeting the committee drafted a short leaflet to give to their fellow strikers encouraging them to claim and giving the names of the committee members to be contacted in case of difficulty. They produced and distributed this leaflet the following day.

Over the next couple of weeks we had several telephone conversations with committee members over snags that had arisen over industrial claims and were able to clarify the legal questions involved. The committee organised themselves so that one or other members of the committee was able to be in attendance at the supplementary benefits office most days to deal with individual problems and where necessary they represented their colleagues in negotiations with the SBC management. The combination of their trade union approach to bargaining and their rapidly acquired expertise in the law relating to supplementary benefits made them formidable negotiators. For example, the first week that claimants were due to claim benefit they were told that no special arrangements were being made by the SBC and that all 120 men would have to make individual appointments. They replied that they were bringing down 100 men to claim the next day and that unless the SBC co-operated they would all be asking for form A124 to be given to them. (This is the form explaining how each individual's SBC entitlement is calculated. Every claimant has a right to one if he requests it but the overwhelming majority of claimants are unaware of this right. Its compilation involves a certain amount of extra work by the SBC staff.) The SBC agreed to make special arrangements and opened the office half an hour early the next day to deal with claims from Wickmans. The committee also took up and won cases of hardship where supplementary benefits had been refused to single strikers and applied for and obtained exceptional needs payments to prevent hardship in other cases. They also successfully represented their colleagues at two supplementary benefits appeal tribunals and complained to their MP over the treatment one of their members received from the SBC. They have since agreed to attend any 'teach-in' on strikers' rights to supplementary benefits that we give to other trade unionists to explain the bargaining techniques they developed for ensuring that their colleagues received their rights in full.
Coventry CDP: *Unpublished Report* 1975

Traditionally claimants and trade unionists have had differences of interest and experience. As increasingly, longer or shorter periods of unemployment become familiar to more and more trade unionists, there are likely to be wider areas of shared experience. The Wickmans case shows clearly the practical possibilities which open up when trade unionists apply their organisation, strength and experience to social security issues.

Change for the better?

Every person in Great Britain of or over the age of sixteen whose resources are insufficient to meet his requirements shall be entitled, subject to the provisions of the Act, to benefit as follows:

a) if he has attained pensionable age, to a supplementary pension
b) if he has not attained pensionable age to a supplementary allowance . . .
Supplementary Benefits Act 1976

Yet is is clear that the *practice* is far less clear cut. Overall the vast network of separate benefits each governed by different sets of rules, is incomprehensible, and intimidating to the extent that people often do not get what they are entitled to. Discretion was built into the system, apparently in order to be flexible to peoples individual needs. Yet even with maximum discretionary payments, what claimants get is inevitably inadequate. Most often, the lack of clearly defined rights acts as a deterrent to pressing claims, and makes it impossible to assess whether your claim has been dealt with justly. The chairman of the SBC wrote in his introduction to the S.B. Handbook 'For the vast majority [of claimants], the Commission has but the single aim of ensuring that the claimant should receive his due and be given whatever help lies within the Commission's responsibilities and powers.' In practice, claimants are rarely alerted to the full range of benefits for which they may be eligible, discretion is consistently exercised in a conservative way and DHSS Offices are reluctant to make full use of their powers. The appeals system was established to ensure that justice was done and seen to be done. In practice, most people do not know it exists or how to apply. Judgements are inconsistent, and appear to reflect the persistence of the claimant and her advocate, than any inherent justice.

David Donnison recently said

> When the Supplementary Benefits system was introduced in 1966 emphasis was placed on the concept of benefit as of right. This reflected a change as much in social attitude as in purely legalistic entitlement. It is a change the SBC wholeheartedly endorses and wishes to foster.

In practice it is difficult to discern this change. It is not reflected either in the attitude of the SBC nor in the formal structure. The reality is such that it is very difficult to talk of 'rights' at all.

The disparities between the intention and the practice are so extensive that it is difficult to believe that they have arisen by accident. The Government resistance to any suggested modifications of the system can only confirm the view that the state has a vested interest in the current arrangements. If one wanted to ensure that poor people had to work as hard as possible in order to subsist, without developing any sense of rights, the system could not have been better designed. While for government, it is clearly embarrassing and dangerous to have vast numbers of people unable to subsist, it is also dangerous to equip a group of people to fight for their rights. It is also necessary for ideological as well as economic reasons to keep the cost down. Since the war the social security system has developed in order to take account of these three elements. The hotch-potch of benefits now available reflect Tory and Labour governments alike responding in a piecemeal way to pressures from reformers and the poor themselves while also taking account of other forces. Together they operate in such a way as to cost as little as possible while minimising protest from the public and from claimants themselves. By keeping the rules secret, public discussion of the adequacy of the system as a whole is minimised. Because discretion makes everyone's situation different, people are less likely to organise together to protest.

Although the function of the system remains unchanged, its form is adapted to take account of changing pressures. It is difficult to believe that one of the functions of the Social Security Act 1966 was to minimise the role of discretion. Another stage in the process of adaption to changing circumstances, can be expected soon. The Chairman of the SBC has announced a major review of the Supplementary Benefits System, and appears to be advocating cutting back discretion while increasing benefit levels. At first this looks as if the SBC has at last conceded to its critics. After consideration however, the picture is less hopeful. It is clear that external circumstances are changing. As unemployment grows, the number of claimants rises and with the move to a permanent high unemployment economy, meeting the demands of these extra claimants is likely to be a continuing problem for the SBC. In addition, cutbacks in the civil service means that there will be fewer staff to process claims. Cutting back discretion would greatly ease the administrative burden. It would also be a way of closing a loophole. Increasingly welfare rights workers have used additional payments as a way of meeting claimants needs, and have made considerable headway.

Although the talk is of cutting down discretion and raising benefit levels there is little likelihood that any increase in basic rates will be acceptable to government in the current climate. In fact, in his pre-Christmas 1976 budget Chancellor Healey emphasised that the gap between the level of social security benefits and wages was too *small.* The SBC appears to be taking the *arguments* of the reformers, to adapt the system in the interests of more efficient management. Quite what changes the SBC will introduce is unclear. On past record however, it is evident that they are unlikely to be in the unequivocal interest of the claimant. Claimants however, cannot afford to wait for ambiguous reforms. Advances will be made not simply by challenging the way in which the supplementary benefits system is administered, but also the framework of values and assumptions which underlies it. Like the Newcastle Campaign Against High Heating Costs, it is important to challenge these more basic issues.

8 Public health rights

Public health legislation was one of the first interventions by the state in working class living conditions. Since the Public Health Act 1848, introduced against fears of cholera epidemics, a substantial framework of legislation has grown up whose explicit aim has been to promote public health by establishing minimum standards of food hygiene and living conditions. In theory any tenant faced with deteriorating accommodation, poor repairs or damp can expect the backing of the law to get matters put right. In practice this is far from the case. The experience of working class households throughout the country is that for most practical purposes these laws provide only a veneer of rights.

The Housing Act 1957 and the Public Health Act 1936 lay down two kinds of obligations for environmental health officers (the old public health inspectors). They have a duty to remedy 'statutory nuisances and unfitness' in individual homes from blocked drains to rat infestations or rising damp, if necessary by taking legal action against landlords. Equally important, they also have a broader obligation to 'consider housing conditions within their district and the needs of their district'. It is the use of these powers that underpins most cases the local authority makes for broad movements in housing, clearance and redevelopment, or the initiation of an improvement programme under a General Improvement Area or a Housing Action Area. In their impact on people's lives and for the executors of housing policy, this broad use of the legislation is therefore of considerable long term importance.

In principle these two Acts, together with many statutory provisions contained in other housing and public health acts, offer not only considerable protection to the individual tenant, but the basis for large scale preventive public health work and for the development of overall housing policy based on detailed knowledge of local conditions. In practice CDP centres have found that EHOs consistently use their powers with respect to individual tenants so conservatively as to be ineffective, and rarely carry out their wider duty to oversee the general local housing situation.

Looking at clauses in the Acts or at the columns of Hansard for the feelings of MP's when the Bills were discussed however, will not provide an explanation for this state of affairs. The effectiveness of the measures depend on the vigilance of the local council and their willingness to fight bad conditions wherever they are found. But local authorities have other interests too. As an agency involved in buying up old houses – whether for redevelopment or improvement – they have an interest in paying low prices for these properties, the better the state of repair, the higher the cost. In addition, as major landlords themselves, the higher the standards enforced, the greater their expenditure on repairs becomes. Enforcement is the final responsibility of the courts. But the low frequency of prosecution by local authorities, the poor level of presentation of cases and the small fines levied on offenders all point to a compliance between court and state at the local level which has a far more important impact than volumes of statutes.

This section draws heavily on work done in Canning Town in connection with the Public Health Advisory Service. But we are not suggesting that Newham Council is any way any exceptionally bad authority. Experience in all projects confirms a quite general pattern.

Siding with the landlord

An example of less than enthusiastic protection given to tenants comes from the Canning Town Information Centre. Tenants of an old property had electrical wiring in their house which was in such dangerous condition that the Electricity Board were threatening to disconnect the supply. They had complained to their landlord who said he could not afford to have the necessary work done, but the house was not to be demolished for 6 years. The Information Centre contacted the local Environmental Health Department and asked them to intervene. The department's initial reaction was to claim that their powers under the Public Health and Housing Acts did not extend to electrical complaints and that if the house had a short life it was unreasonable anyway to expect the landlord to undertake extensive work. As an after-thought they added that a simple way to abate the nuisance would be for the landlord to disconnect the supply himself – leaving the tenant

without electricity altogether! It was suggested that, although the Department would not intervene, the tenants themselves could take court action against the landlord. Only after very strong representations from the centre did the Environmental Health Department finally agree to take up the case; an independent examination of the legislation showed they clearly did have a duty to intervene. A fact which they have now accepted.

In June 1975 Canning Town CDP conducted a follow up survey of 25 houses in a small sector of the project area. The local tenants' association had submitted details of complaints about the conditions of the houses to the EHO for the borough nine months previously. Problems included leaking roofs, several collapsed ceilings, defective floorboarding, rising damp, blocked drains, dangerous condition of electrical wiring and rodent infestation. The houses were in an area which had been in the shadow of a compulsory purchase order for 10 years. The follow up survey revealed first of all that all the houses had been visited promptly by EHO's and that action to secure at least some repair work had been promised in all areas.

However in only a few of the most serious cases had any subsequent visit been made to check that work had been carried out. None of the tenants knew what action had been taken by the EHO beyond that he had 'got in touch with the landlord'. No details had been given by the EHO of any notices served under the Public Health Act 1936 to tenants. It did not appear that any cases were taken to court.

In some cases repair work had not been carried out for several months. In many cases no repair work had been done at all. The survey found two ceilings that had collapsed but had not been repaired; rising damp had not been tackled in any of the houses, nor any of the cases of defective floorboards.

It became clear that despite their statutory obligations the Department thought that the houses should only be made 'wind and weathertight'. In their view of what was 'reasonable' they had taken far greater account of the interests of the landlord than of the tenants. One tenant commented bitterly that seven years previously he had called in the department and the same formula had been applied then on the grounds that he would be rehoused within two years.

Although well organised, this tenants' group was in the same position as most tenants. Environmental Health Departments rarely produce publicity material on public health powers and their operation. At the worst this means that many tenants are completely unaware of their rights; many can get no further than a complaint to the landlord. More often it means that the tenant has no knowledge about the process, what to expect in the way of results and how long it will take for work to be completed. The tenant is at the mercy of the department, and needs to be extremely well informed and very persistent to keep abreast, let alone in control, of the action taken against his landlord.

But however well informed the tenant, the responsibility for ensuring that the tenant is protected lies with the local council and its Environmental Health Department. Occasionally, as in the first example, the Department actually ignores the law. More frequently the problems arise from the way departments exercise their powers within the law.

Choosing the weakest weapons

The main area of discretion available to the Environmental Health Officer is in the choice of powers. Faced with a defective house and a recalcitrant landlord he has a number of choices. The difference for example between serving a section 93 notice and a notice under section 9 of the Housing Act 1957 in a case of rising damp is a difference between replastering a wall and the insertion of a proper damp proof course, alongside the difference in time to carry out work. The difference between serving a section 93 notice and a section 26 notice is that section 93 gives the landlord 28 days to complete the necessary work while section 26 only allows 9 days. Even more importantly, after a section 26 has expired the local authority can do the work in default, but under a section 93 the landlord is normally taken to court, a process which can take up to a year. In general Environmental Health Officers tend not to choose the strongest powers, working to a policy of persuasion rather than compulsion. Even in the face of massive evidence of how ineffective the approach usually proves, they continue to visit and cajole owners rather than go to the courts.

Faced with recurring difficulties in helping tenants with repairs, the Canning Town Information Centre commissioned the Public Health Advisory Service, an independent body, to report on the use of public health powers by Environmental Health Officers in Newham. PHAS found that to the detriment of tenants and the long term condition of housing, Newham EHO's frequently chose to use the weakest powers, as can be seen from the following figures:

London Borough of Newham	*1974&75 Notices Served Totals*
Section 93 PH Act 1936	1,557
Section 26 PH Act 1936	216
Section 9 (1a) H Act 1957	55
Section 9 H Act 1957	0

The report goes on to dismiss the arguments commonly used against implementing the stricter powers: the problem of recovering money for work done in default; the supposed extra load imposed on officers and the department's time. In fact, use of the stricter powers offers a significantly increased return for similar investments of energy and could be used to strengthen the preventive approach to public health. Despite the fact that the PHAS report describes the approach of the Newham Environmental Health Department as 'haphazard, indiscriminate and probably illegal in many respects,' it is significant that a comparative table of the effective use of public health

powers by London boroughs puts Newham in a respectable position in the middle ranks.

Adapting discretion

In Oldham conditions in local lodging houses contravene the public health regulations, yet the Environmental Health Department continues to take no action. When approached they admitted that they did not use their available powers because the local authority had not got the resources to provide alternative accommodation. To close these lodging houses would only drive people out to others nearby. The pattern is the same in many other local authorities. Environmental Health Departments may argue that they do their best with limited staff and resources. In practice they have made a choice, rather than take issue with local authorities and central government, they choose to turn a blind eye to illegal practices.

The extent to which local Environmental Health Departments use their 'professional' discretion to suit the political needs of the local ruling group is clearly illustrated in the experience of one tenants' association in a London redevelopment area: Residents had been consistently refused improvement grants on the grounds of imminent clearance for the previous eight years. Not surprisingly, rumours in the summer of 1974, that, after all, some houses in the area might be retained for improvement created consternation and some anger. The rumours had foundation; a report to the housing committee in January 1975 argued that total redevelopment as an option was no longer viable. The authority were responding to changes in government policy which now stressed the need to 'do everything possible to save dwellings from demolition'. In support of the Council's case, the Environmental Health Department did a survey of conditions in the area. They claimed that 39% of the dwellings were in good condition and that many more could also be saved.

The Council had not discussed its changed policy with the tenants' association, but after an angry protest demonstration a public meeting was called. 173 people out of 195 indicated they wanted to be rehoused. At the next council committee meeting, it was decided to return to total redevelopment. The Environmental Health Department was asked to do another survey. This time only 12% of the properties were declared 'fit'! The senior EHO's view now was that the 39% of houses which previously could have been saved 'at modest cost', could 'never be of good arrangement without considerable reconstruction.' This time the tenants were lucky, the authority had directed the use of public health powers in their interests. Nevertheless this kind of use of 'professional' advice reflects badly on local councils. The issue was not seen as a matter for political debate about different housing policies but as a technical matter of how best to deal with houses in the light of apparently 'professional' and 'objective' studies as to their condition.

Professional values

At first it is hard to account for the consistent way in which Environmental Health Departments fail to pursue the interests of the tenants. The pattern is too widespread to be understood in terms of personal idiosyncracies. Understaffing is a serious problem, but not the whole answer either, as use of stronger powers does not necessarily involve more work. Equally it would be wrong to think there was some kind of conspiracy afoot. The experience of one project which undertook a major campaign to encourage tenants to use the public health legislation reveals quite a lot about the thinking behind Environmental Health Department decision making.

Although East Howdon, in North Shields had been declared a General Improvement Area many tenants were unable to get either repairs or improvement work done. First, the tenant wrote to the owner requesting action and listing the repairs needed. After two weeks and no reply they wrote to the local Environmental Health Officer who usually visited within the week. There was always a tendency during visits for EHOs to play down and minimise complaints but at the same time they were also very ready to tell residents that they knew the owner intended improvement and some repairs just were not worth doing. More often than not EHOs would go away leaving residents none the wiser about what action they were going to take. After four weeks, residents wrote again asking that a statutory abatement notice be served under the Public Health Act 1936. The Department responded by making it plain that they were the experts and knew what was best. Residents usually found in fact that EHOs had written to owners requesting repairs be done, but nothing else. Under pressure they would then write again – threatening to serve an informal notice on the owner. Such notices have no basis within the law and are in effect a way of spinning out an already lengthy process.

EHOs are reluctant to use the law fully because of a basic fear of confronting landlords and a concern with the amount of time and paper work involved in court action. They also have a 'professional' relationship with owners, dealing with estate agents and builders on a regular and friendly basis using first name terms and so on. Although there is nothing conspiratorial or illegal, this makes strong action difficult. After another month had lapsed the EHO would send another letter to the owner, stronger worded this time. Statutory notices were only sent out as a last resort. More often than not even these were ignored by owners. They knew very well the way North Tyneside EHOs worked and that they could play things along for months without having to take any action. Even when notices were ignored, EHOs did not go straight for court action, sending out further letters instead. In the end only one case ever reached the court.

Resources

Central and local government's real commitment to public health must be judged not only by the strength of the

initial powers made available, but by the level of resources pumped in to make the legislation work. Chronic understaffing is the first problem. Most Environmental Health Departments if challenged about their failure to pursue the interests of their tenants would point to their enormous workload and lack of staff. EHOs do not have the time to follow up the complaints of individual tenants as thoroughly as they would like, never mind begin to exercise their broader powers.

But it is clear why neither local nor central government is interested in a major expansion of the Environmental Health Service. Taking up the interests of those in the worst housing conditions can only create further pressure for state intervention, in particular for more new building and more compulsory purchase, cutting across other government priorities. When in 1975, the Canning Town CDP submitted a proposal to the Council to employ – out of their existing budget – a part-time public health inspector to work with local tenants associations, the Environmental Health Department raised strong objections.

By the very nature of the proposed appointment, the consultants approach to the tenants problems *must be orientated to their needs irrespective of the totality of the council's interests.* And it must be anticipated that advice given to tenants by the consultant, would not be accountable by the council, *could well clash, in particular with the council's view of the position, or generally with other related council activities.* (our emphasis)
Chief Public Health Inspector, London Borough of Newham, *Report to Policy and Resources Committee,* June 1975

Challenging the council

The council tenant faces different but equally severe problems. Environmental Health Departments, as part of the council, are unable to take court action against it. Intervention is limited to informal internal memos which housing departments generally ignore. The tenant still has the formal right as an individual to take the council to court, but in practice this is an option which few are in a position to take up. The tenant is asked to be familiar with a complex and little known sector of the law and the process for implementing it. She will then face a hearing, or series of hearings for which costly representation may be needed. If the initial judgement goes against the tenant there is the question of appeal: a yet more costly and complex process. Despite the wide publicity within the information centre and law centre movement on the use, particularly, of section 99 actions, the potential and workings of the law are not widely known and relatively few public sector tenants are in a position to look to an information or law centre for financial and legal support. Nevertheless 'taking the council to court' has become an increasingly popular strategy with advice centres who have found that even the threat of legal action can have a surprising effect.

Tactical victories

Mrs Black had lived in her council house for eight years. For most of that time she had complained steadily about a major problem; the house suffered from what appeared to be severe rising damp affecting two walls. There was a persistent fungus growth which spread to nearby furniture. The EH Department would not intervene. The repairs department, claimed that severe condensation caused the fungus growth, blamed the tenant for not ensuring adequate ventilation and took no further action. The CDP Information Centre and local councillors took up the case, but still nothing moved. After eighteen months of persistent but unrewarded work, the centre contacted the Public Health Advisory Service. Their independent report was concise and to the point; the damp constituted a statutory nuisance and was aggravated by various structural factors. Shortly afterwards Mrs Black was offered a new property by the authority. A deadlock situation was broken by the introduction of a professional opinion backed up with the implied threat of consequent legal action.

There have been many cases of success in court, too. Mr and Mrs Moore, with two children aged one and two, lived in a 'temporary' flat provided by Newcastle Council. Their previous council home had flooded and they were forced to move. Mr and Mrs Moore came to the CDP Information Centre with a number of serious complaints about their new accommodation. The ceiling in their living room and kitchen had collapsed, in one case nearly injuring the eldest child and Mrs Moore and causing damage to clothing and furniture. Despite persistent complaints a faulty bannister was not repaired; Mr Moore fell through this injuring his back, arms and legs. The electricity supply in the house was in a very dangerous condition, with bare wires in the scullery and a defective water heater.

The Information Centre took up the complaints with both the Environmental Health and the Housing Department but none of the problems were dealt with. After the family had spent nearly five months in these conditions the tenants decided to press legal action under section 99 of the Public Health Act 1936. Two days after the council received notification of the prosecution the Moore family were offered a new house. The action went ahead, however. The council were found guilty and costs were awarded to the tenants. The court did not fine the council but compensation has now been agreed for damage caused to the family and its belongings.

Similar actions have been taken by the Oldham, Canning Town, Coventry, North Tyneside and Liverpool CDPs. Many have met with success and the attitude of local authorities to public health complaints in their properties after a successful prosecution has often been much sharper and much more considerate. The experience does show the potential in some circumstances, for the use of provisions such as Section 99 to provide protection for council tenants. In cases where an exclusively legal approach has been used, however, delays in getting to court and unhelpful decisions in the higher courts have almost invariably

favoured the local authorities. The sheer novelty of the approach has often brought results, but it seems likely that this breakthrough will prove shortlived.

In Coventry a group of local residents, assisted by the CDP community lawyer, tried to use the public health legislation on an environmental issue. Members of the Fiveways Residents Association issued summonses under section 99 of the Public Health Act 1936 against Coventry City Council claiming that rubbish deposited on certain derelict sites in their area constitutes a nuisance within the Act. The magistrates heard their evidence and technical evidence from an ex-public health inspector working for CDP, as well as visiting the sites. The magistrates found the summonses proved and ordered the sites to be cleared. The council did clear the sites but also appealed to the High Court where they won. Although the residents successfully employed experts in their campaign and won, other residents groups with similar problems gained nothing from their action. The adverse precedent simply closed off a legal tactic previously open to them. It could well have been possible to fight a purely political battle, without setting a damaging precedent.

Used as a weapon on their own it is clear that whatever the apparent justice of the case, purely legal tactics cannot be relied upon. Whether as individuals or in groups, public health legislation together with environmental health practice and the performance of the courts gives tenants quite inadequate protection. The legal system appears to offer real rights, but in practice intervenes between the tenant and the market – whether this be the landlord's profits, the resources available to the council or the national economic situation – to *appear* to take action but in effect to absorb complaints and to protect the interests of private or state landlords.

Approaches to change

Early in 1974, tenants from a clearance area in Canning Town approched the Information Centre for advice on how to obtain compensation payments when they were rehoused. It turned out that Newham Council, along with many other local authorities, had not implemented the provisions of the Land Compensation Act 1973 concerning compensation but were continuing only to pay displaced tenants a small sum of 'curtain money'. The tenants formed an association from their street representing over 200 people. The fight for increased compensation lasted eighteen months before the council conceded the incraese and changed their policy. An estimated £150,000 was paid out in back payments.

The central issue in the campaign was to claim a right under the Land Compensation Act 1973. In a strictly legal sense each tenant had a way open to them to claim this right which would have ended with a hearing at the Lands Tribunal. but, the assocation decided that it was not just concerned with getting fair compensation for the few individuals persistent enough to exhaust the machineries, but with getting payments for everyone. They wanted a change in policy that would benefit people in the whole street and elsewhere in the borough, a change which involved a political decision.

The legal side was thoroughly explored using the skill of several solicitors, a barrister and a valuer but the campaign was fought through collective action; letters, petitions, a barrage of claims and a running argument about the level of payments needed. Legal expertise and backing gave the tenants confidence in their case, but it was the pressure of a well organised campaign that forced the council to settle without a hearing at the Lands Tribunal. An account of the struggle was published in 'Community Action' magazine and groups in other areas used the victory to press their own authorities for changes in policy.

In this example, chosen for its successful outcome, the CDP Information centre was used by local residents in a number of ways. First, faced with the tenants concern with compensation, CDP workers were able to study the relevant legislation and to establish that the council had neither changed its policy nor carried out its duty to publicise the new provisions. Second, the centre was able to introduce the association to skilled professional advisors who gave an opinion on the strength of the tenant's case. Third, by taking part in association meetings, centre workers made their knowledge of the workings of the local authority and its personalities available to the group so that they were able to plan the most effective tactics.

In the introduction we noted that the CDP experiments have given rise to a wide variety of initiatives in the advice centre field. This section turns to look at the range of tactics employed throughout the experiments, drawing together the approaches which have been described earlier in the report in the context of particular problems.

An individual approach

At the simplest level CDP centres have opened their doors to unsolicited callers. Callers bring their problems to the centre and the centre worker works with them to find ways of tackling the situation. The degree of help from the worker varies from providing straightforward information to following cases right through and providing representation.

Centres have found this approach effective over only a very narrow band of issues. Given the nature of most problems, individual casework has no chance of success. It cannot challenge council policy on housing allocation or its failure to identify public health nuisances, still less the closure of a local factory.

Of course casework has its 'successes'. Priority can be obtained on a housing list, spectacular back payments have been received from social security departments and pension problems can be sorted out. But it is the view of many CDP centres that although there is apparently unlimited demand for their services, the gains won for callers are ambivalent. Helping someone move up the housing queue for instance must normally be at the expense of others on the list. In addition, there is some evidence that resources invested in following up individual cases soon bring a reaction from within the administration. A council housing department juggling with a limited supply of houses, on being faced with a volume of well argued cases for priority, reacts by making the procedures more difficult or refining its points system to create more priority categories. The environmental health department

in another authority responds to increased demands for decent repair standards by challenging the motivation of the information centre giving help to individual tenants. Even in the case of the social security local officer where, in theory, there are always resources to meet legitimate claims, centres have met with active resistance.

Finally there is a real danger that centres themselves confuse weight of work with effectiveness, action with results. It is positively harmful for an information centre that knows there is nothing that can be done about a particular issue to send out the letters and follow up the queries week after week. Unfortunately the haphazard and low cost development of centres in general has often led to very small teams of workers battling with heavy demands for help, unable to find the time to consider the implications of their work. CDP teams have not entirely escaped this error but at least they have been able to explore the alternatives more thoroughly. Centres have used three main methods to generalise and direct the experience gained from individual casework, the take up campaign, tests cases and lobby campaigns.

Take-up campaigns

The take up campaign has its origins in a very common and real problem; welfare benefits are not taken up by those who are eligible for them. A number of centres mounted surveys to find out the effect of underclaiming and underpayment. Using the results, campaigns were organised both to open up the bureaucracy and to encourage people to claim their rights. This general method has also been used to gain public health protection in some areas and to locate and organise divided families in Birmingham. In spite of a number of extremely thorough campaigns results have been disappointing. Campaigns do seem to create a temporary increase in interest but, as has been found by other groups, interest rapidly falls away and even at its peak the gap between what could be claimed and what actually is claimed is very wide.

Test cases

We have tried to set the experience of CDPs in its widest legal context considering both the narrow legal implications of our work and its place in an overall framework of developing legislation. In common with a wider information centres movement, CDPs have become more explicitly interested in the role that lawyers can play in working class areas and some have developed legal expertise. The Liverpool, Coventry, Benwell, Birmingham and Southwark projects have all set up legal initiatives, Upper Afan and Cleator Moor both set up legal advice schemes in conjunction with other organisations and one project, Canning Town, has employed a solicitor to work within its centre without any professional identification.

As commitment has grown so has interest in using specifically legal tactics. The aim is often not just to take up individual cases but to use gains won in this way for wider groups of people. The idea behind this 'legal guerrilla' approach is that the law does contain substantial rights for working class people but that these need to be wrenched from the system by harassing legal actions and exploiting loopholes. Within this approach the test case is clearly a key tactic. It is our view that the use of an exclusively legal approach as a way of changing policy (as opposed to exploiting a clear anomoly or the immediate interest of a caller) has many dangers and should be treated with great caution. Two examples illustrate this point.

In Liverpool, the project, through its lawyer, became involved with a group of council tenants whose lives had been seriously blighted by the conditions under which they lived. The central issue was the condition of the common parts, lifts, stairways and passages, which, in the tenants' view, the council had neglected, allowing rubbish to accumulate, damage to go unrepaired and services to deteriorate. A case was proposed in the name of two of the tenants and an action taken against the Liverpool City Council to get the nuisances removed and the block brought up to standard. The detailed preparations involved the services of not only lawyers but a public health inspector and other experts. At first the tenants did well. In a lower court the detailed judgement reads as a savage indictment of municipal neglect and the case was won. But the council, aware that losing this case would involve expense not just on one block but on many others, appealed. At the end of a long legal struggle the matter was finally determined by the House of Lords. The tenants argued that it was the council's duty to maintain all the property in good order but the court, no doubt mindful of the wide financial implications for landlords if this argument was accepted, decided that no such general duty existed. They did find that the particular tenancy agreement between Liverpool City Council and the tenants implied that the council should keep the 'common parts' in reasonable repair. By failing to impose an absolute duty and not defining what it meant by reasonable, the court created more loopholes for landlords to escape through and doubtless more legal frustrations for tenants in trying to define exactly what the judgement meant.

Liverpool council's response to the case was to propose a change in the tenancy agreement to exclude any obligations on their part. In doing so they would defeat all the limited gains won by the tenants. Only after tenants' protests and demonstrations were the council persuaded to abandon this course. It is difficult not to draw the conclusion that the tenants would have been best advised to use their militant tactics from the start instead of relying solely on the legal process to change the council's policy.

The second example comes from Canning Town but its essential elements have been repeated again and again around the country: dampness in a tower block for which the local authority (the GLC in this case) disclaimed any responsibility. A tenant sought the help of the information centre which suggested action under the Public Health Act 1936. It was agreed that action on this particularly bad case would provide a focus for organisation for the whole

block many of whom had similar grievances. The case was presented to the local magistrate who threw it out on a technicality. His ruling was challenged in the High Court and, after delay, was overturned. On return to the magistrate the council presented a substantial and detailed defence and won a qualified judgement. Meanwhile the tenant had been offered alternative housing and, unable to see the end of the delays, had moved. All chance of tackling the substantial issue was lost.

Over the past five years information centres and law centres throughout the country – including CDP Centres – have encouraged the use of Section 99 of the Public Health Act 1936 and stressed the simplicity of the legal procedures involved. The reality is different. Inevitably cases become stuck on a technical point, or a complex legal argument is introduced, or an appeal is needed on a point of the judgement. Costs rise and control is lost by the original applicants who has to rely on their professional adviser. People find it difficult to understand how the simple injustice of a leaking roof can possibly be grounds for such a two-sided argument. Or the case may simply be priced out of his reach; heavy potential costs are one of the most effective class barriers to British justice.

It is difficult to retreat from reliance on the judiciary. Once all the energy has gone into the test case and all the tactics are in the legal bag, the success of the struggle is totally dependent on the judge's decision. When the negative judgement comes the only response is the lemming-like rush to the next highest court for appeal. Appealing holds a further danger. The judgements of lower courts can shatter the basis of the right, but they do not linger on to interfere with other similar cases. By going to a higher court the risk is run of setting a clear negative precedent. As the process goes on, any wider view of the struggle is diffused and it becomes impossible to take any other action. All too often people set out to fight on a wide front but get sucked into the consuming and frustrating procedures of legal action. We have still too few examples where legal advice and action took its proper place in a struggle which needed political decisions to succeed.

Lobbying

One of the most common tactics used by information centres to generalise the experience of hundreds of individual cases is to use them as evidence to mount a wider campaign. The significant feature of this approach is that the centre workers, with the support of their management, choose the issues to be raised and mount a lobby independent of their callers. The authority of the centre workers is then directed to getting changes in policy – and sometimes in the law.

In choosing the ground carefully it is sometimes possible to get small changes made. Too often they are peripheral, and in some cases may actually not represent any advance at all. Coventry CDP's attempt to persuade the DHSS to make specific changes in the way supplementary benefits are administered, led only to very limited innovation in one of two local security offices. The campaign to improve entry clearance procedures, has brought some changes but no real improvement overall.

Collective challenge

In reviewing the experience of the individual services given by information centres it is clear that there are misgivings about the limitations of programmes based on the individual cases. Leaving aside the question of the actual independence of the centres for the moment, it is still clear that approaches based on casework, however ingenious their application, boil down to making arguments from a subordinate position and attempting to get courts, governments or local authorities to accept the validity of your reasoning.

In this context, the resources of information centres are dwarfed by those of the bureaucracies with which they take issue. Effective performance is diminished by letting these resources become wholly taken up with a queue of pressing problems. Each centre has devised ways of keeping demands within bounds and therefore is selective in what it takes up. Choices are made by centre workers even though there is seldom an explicit policy on how the choice is to be used.

Although each CDP established some kind of information centre and opened its doors to individual callers, projects have tried to overcome the limitations of casework approaches by offering a service to the community as a whole and have tried to find the best form of organisation to make this possible, offering resources to local organisations. Usually these have been tenants associations, drawn from specific housing areas, or trades union organisations, although in a number of cases projects have dealt with area-wide action committees drawn from both resident and workplace organisations. The demands of these groups on CDP centres have been as specific as obtaining rights to compensation on redevelopment and as general as assisting in the preparation of a campaign to resist factory closures in the area. The tactics employed by the groups are not limited to simply applying pressure on particular issues but include making an intervention in local political discussion.

Centres have been able to bring a range of skills to these discussions. First, centre workers familiarity with legislative change and council business have been able to give accurate and up to date advice on policy areas and in particular on the implications of recent changes and current proposals. Second, centres have been able to put groups into direct touch with experts on specific issues. Third, CDP resources, printing, typing, photocopying and so on has been available to advance the business. Fourth the resources of the project workers have been available to research particular issues thoroughly.

It would be mistaken to suggest that work of this nature has always succeeded where casework has failed. Nevertheless examples of successful struggle through trade union organisation in the industrial field are well known. CDP's have had some experience of similar victories in housing and other area based issues. Collective efforts by tenants in Canning Town forced the council to rehouse all the tenants from a run down 1930's estate. Pressure made the council in Coventry change redevelopment proposals into an improvement scheme. Collective action has brought similar successes – but also many failures – in every area. Through all these struggles, concessions have been won not given. It is in this sense that collective action accepts the realities of struggle and not the posturing of legal and administrative machinery.

Community control

CDP experiments have not been fully accepted by the communities upon which they have been imposed. Years of work cannot remove the suspicion of the schemes arising from their status as state-sponsored schemes. The short life of each project and the relative freedom of the project workers has enabled many initiatives to be mounted but it is clear that the ambiguities of control must be resolved if the work is to be built upon.

Most centres have been part of the local CDP project with their authority coming in the last analysis from the sponsoring local council and from the Home Office. Any confidence built up between the project team and the community has rested on the personal relationships established between local people and the team. In some areas teams have been able to experiment with putting resources into the hands of local interests. Early efforts in this direction, for example the award of a grant to a consortium of residents groups in Hillfields, Coventry and the precedent of putting the whole local CDP agenda to a regular public meeting in Liverpool, did not produce practice that differed significantly from that of more conventional centres.

By 1972 the growth of national pressures on working-class communities (particularly the threat of the Housing Finance Act 1972), and the growing awareness of localised industrial decline led to demands being made on CDP's to service struggles at a more fundamental level. As well as giving support to particular struggles projects have been able to use their budgets to encourage the formation of bodies, controlled locally, which service the immediate working-class movement directly. On Tyneside the North East Trades Union Studies Research Centre has been established. In Birmingham, the East Birmingham Trade Union Research Unit under trades union direction has been given funds for a one year period.

This kind of move has often brought swift and angry response from councils. To challenge the administrative system on rent levels or public health standards is to expose the contradictions between the council as administrator, as arbitor and as judge. In Batley the demand for a grant for the Action Centre led to refusal and in time to the closure of the project. The Coventry, Benwell, North Tyneside, Birmingham and Canning Town projects have all been threatened with instant closure because of the pressure building up on the councils from the CDP areas. The Cleator Moor project was shut down for similar reasons.

Endless experimentation with advice and information centres is empty unless it is accepted that there must be a shift of resources so that they are controlled by working-class people and able to be used in the way that they wish. To begin to make any significant impact it is necessary for such centres to forge active links with and between community and workplace organisations. If there is a lesson from the experience of the centres in twelve CDP areas it is that any fresh work must concentrate on making this possible.

Conclusion

The aim of this report has not been to present an overall view of the work of CDP Information Centres. We have tried to draw on the experience of the projects in poor working class areas to raise some critical questions about the effects and nature of the law.

In the hands of parliament, the judiciary and the administration, measures originally heralded as advancing working class interests turn out to be extremely limited. We have given examples of laws that are strong on paper but weak in practice, through the failure to establish adequate enforcement machineries. Policies introduced to alleviate basic problems flounder because they are dependent on coaxing rather than controlling capital. Even procedures designed to formalise the conflict between worker and employer, offer only ambiguous advantages for workers' organisations.

The substance of the law may change but it continues to play a key role in preserving dominant interests. We must conclude that within our society the law functions primarily to protect and promote the interests of capital. The law is one of the main ways in which the state ensures order and compliance in an unfair, unequal and exploitative economic system. The 'rights' of workers, tenants, or the unemployed must be seen in this context. They are not rights to challenge the real processes which rule their lives, but rather pressures to conform and wait for better times.

We have talked simply of the 'state' and of 'capital' because in many ways there is such a clear identity of interests between those who make the law, those whom the law protects and those who enforce it. In doing so we have not been able to deal adequately with the tensions between these interests, between the courts and parliament, between local and central government or between elected representatives and state officials. Yet in many ways it is through the conflicts between these interests as well as through working class pressure, that the state adapts to meet changing circumstances.

The legal system has a central role in the adaption process as it balances its internal self-interest against the overall need for change. This produces friction with other parts of the state and can create the illusion that working class interests can be secured through using legal action against local authorities or other government agencies. We can find no evidence to suggest that this is true in the long run. On the contrary it is likely that increasing the powers of the courts over other parts of the state like, for example, a Bill of Rights, would reduce the possibility of change.

The report pays particular attention to the increasing importance of the administrative system in carrying out the law. The development of the state administrative system is one of the most important ways in which the state has adapted to changing circumstances in recent years. This report goes little further than pointing out its growth over the past thirty years and illustrating some of its more obvious features. There is a need for a much more comprehensive analysis of this alternative system of state-dispensed justice. Many organisations continue to be ineffective in their dealings with the administrative system for want of a clearer understanding of what it is and how it operates.

Change, whether local or far-reaching, is won through political action, by people organising together to challenge the structures and decisions which oppress them. CDP evidence shows that groups that have borne this in mind whilst planning their use of administrative or legal tactics have been able to secure important victories. The work of information centres, like CDPs, is to provide the resources, information and experience which will enable local people to deal more effectively with the continuing problems they face.

References

1. Destroying the Local Economy

The Costs of Industrial Change – an Inter Project Report, 1977
Jobs in Jeopardy – an Inter Project Report, Nigel Moor, 1974
Aims of Industry? – Canning Town CDP, 1975
Workers on the Scrapheap – Birmingham CDP, 1975
Batley At Work – Batley CDP, 1974
West Newcastle in Growth and Decline – Benwell CDP, 1976

2. Employers Beyond the Law

Spyrallynx (1933) Ltd. – Canning Town, 1977
Garment Workers in West Newcastle – Benwell CDP, 1977
Workers and the Industry Bill – an Inter Project Report, 1975

3. Speculation within the Law

NCB Pension Fund Rescues Cedar Holdings – Birmingham CDP, 1974
Property Exchange in Satlley – Birmingham CDP, 1975
Local Authority Mortgages in Saltley – Birmingham CDP, 1975
Benwell's Hidden Property Companies – Benwell CDP, 1977
Installment Mortgages in Birmingham: Another Way of Evading the Rent Acts? – John Shutt and Ann Stewart – New Law Journal 26/2/1976
Property Exchange in Saltley – Geoff Green – Housing and Class in Britain, Conference of Socialist Economists, 1976
Profits Against Houses – an Inter Project Report, 1976

4. Incentives for Better Housing

The H.R.S. Residents Association Report – Coventry CDP, 1973
Wilton Estate Tenants Association – Report on Modernisation, Coventry CDP, 1973
Noble Street & Norwich Place – Benwell, 1974
The East Howdon Study – North Tyneside CDP, 1974
The Future of Ropery Banks – North Tyneside CDP, 1974
The Gardner Street Survey – North Tyneside CDP, 1974
A Report on the Future of the Triangle Area – North Tyneside CDP, 1974
Evidence for a CPO – Oldham CDP, 1973
A.D.N.I.C. – A First Report – Oldham CDP, 1974
Our Homes – Our Future – Oldham CDP, 1974
Improve Our Houses – Improve Our Lives – Oldham CDP, 1974
Housing Improvement and the Racial Conundrum – Oldham CDP, 1975
Discount Improvements? – Oldham CDP, 1976

5. Deterring Asian Immigration

Divided Families – Birmingham CDP, 1974
When is a Wife not a Wife – Birmingham CDP, 1975

6. Getting a Council House

A Study of Housing Allocation Policy and its Effects – Oldham CDP, 1975
Housing Allocation in Paisley and Ferguslie Park – Paisley CDP, 1975
Whatever happened to Council Housing? – an Inter Project Report, 1976

7. The Social Security System

CDP Legal and Income Rights Programme: Casework, Campaigns and Adult Education – Coventry CDP, 1975
Welfare Rights Campaign, Interim Report – Batley CDP, 1974
Welfare Benefits Advocacy in Batley – Batley CDP York University Papers in Community Studies No.11, 1977
The Batley Welfare Benefits Project – Batley CDP York University Papers in Community Studies No.5, 1977
Knowledge of Rights and Extent of Unmet Need Among Recipients of Supplementary Benefit – Coventry CDP, 1972
Exceptional Needs Payments and the Elderly – Coventry CDP, 1973
The Impact of Income Maintenance Services – Research Submission, North Tyneside CDP, 1974
DHSS Rent Allowances and Rents Charged in Houses in Multiple Occupation in Glodwick – Oldham CDP, 1975

8. Public Health Rights

Redevelopment: A Report on Rehousing From Liverpool Road Phase 1 Clearance Area – Canning Town CDP, 1975
Public Health and Housing in Newham: P.H.A.S. for Canning Town CDP, 1977
Cuts or Compulsory Saving – Blaming the Poor for Their Poverty – Batley CDP, 1975

Welfare Rights – The North Shields Campaign – North Tyneside CDP, 1975
Welfare Rights – An Experimental Approach – Jonathan Bradshaw Chapter 11 in Action Research in Community Development – Lees and Smith (editors) RKP, 1975

Approaches to Change

The Vauxhall Multi Services Centre, 1971-75 – P R Topping and George Smith, 1976
Recent Developments in Legal Services For The Poor – Martin Partington, Coventry CDP 1975
Community Information and Action Centre – Cumbria CDP, York University Paper in Community Studies No.1, 1975
Information and Advice Services for Rural Areas – Cumbria CDP, York University Paper in Community Studies No.4, 1976
Report on The Work of The Experiemntal Legal Advice Services at the Hillfields Information and Opinion Centre 1971-72 – Coventry CDP, 1972
The Annual Reports of The Benwell Law Project – Benwell CDP, 1975 and 1976
An Appraisal of the Ferguslie Park Directory – Paisley CDP, 1975
An Information Centre in a Deprived Housing Estate – Paisley CDP, Glasgow University Discussion Paper in Social Research, 1976
The Canning Town Information Centre 1974-6 – Canning Town CDP, 1977
Reports of The Liverpool Law Society on The Working of the Vauxhall Community Law Centre – Liverpool CDP, 1974, 1975 and 1976
Neighbourhood Advice and Information Centres Interim Report – Oldham CDP, 1976
The Hillfields Information Centre: A Case Study – Nick Bond, Chapter 10 in Action Research in Community Development, RKP, 1975
Working With Tenants – John Foster, Chapter 8 in Action Research in Community Development, RKP, 1975
Proposals for a Trade Union Research Unit in East Birmingham – Birmingham CDP, 1975
The North East Trade Union Studies Information Unit – John Foster and Tom Ellinson, North Tyneside CDP/WEA, 1976

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. . . Successful action requires the recognition that legal decisions are made in a political and economic context. It is the reality behind the law which must be challenged.'

This is a report about the role of the law in the lives of working-class people. It is not about how the law is supposed to work but about what happens in practice. The report draws on the experience of twelve Community Development Projects set up by the Home Office to investigate and take action on 'urban deprivation'. It shows how beneath a veneer of 'rights', the law operates consistently to protect and promote dominant interests in the economy, at the expense of the working class.

Part One examines the protection the law gives against the actions of banks, landlords and private companies. It shows how the law will never intervene effectively in the activities of capital and the consequences for working class areas. The compensation, protection and arbitration machineries offered instead are frequently inadequate, poorly enforced and fail to confront the real problems.

Part Two takes a closer look at the state administrative system: the rules and procedures which govern the operation of government agencies, from immigration to social security. Here, too, through all the confusion and secrecy, it is dominant interests that are protected.

Limits of the Law reviews the different ways the Community Development Projects have approached the law. It shows the weakness of strategies which take law at face value. In practice insisting on rights may not be as straightforward as it seems. The law cannot be relied on to ensure real justice.

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