

Deregulation, the Absence of the Law and the Grenfell Tower Fire

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Abstract

The paper argues that the absence of health and safety legislation at Grenfell Tower, caused by decades of deregulation in the housing sector, combined with an institutional indifference towards its residents, meant that there was no legal framework to adequately protect the residents on the night of the fire. The Grenfell Tower fire symbolises a form of state violence against populations marked for disposability, namely racialised minorities, the working class, and women. The disaster itself was made possible due to the systemic neglect of the state and the private bodies involved in the management and refurbishment of the tower, who in their drive to cut down on cost and gentrify the area, compromised the basic health and safety of the residents. In death, the Grenfell victims have become reduced to 'bare life'. Around 100 residents living in Grenfell Tower were women, many of them were of BAME origin, and most were working class. The article argues that the vulnerability and the precarious place of the racialised, working class body in social housing residential living in the United Kingdom today is emblematic of the wider treatment of communities across the country, whose housing needs have been ignored for decades.

Keywords

Housing – violence - the right to life - The Royal Borough of Kensington and Chelsea - Kensington and Chelsea Tenant Management Organisation - stay put - the Right to Buy - Lakanal House fire - deregulation

1. Introduction

The Grenfell Tower fire on 14 June, 2017 is one of the worst man-made disasters in post-war Britain. The fire, believed to have been started by a faulty fridge on the 4th floor of the 24-storey, 120-flat residential block in West London rapidly spread throughout most of the building engulfing the outside cladding within 45 minutes. Most residents were able to evacuate, despite the official advice of the London Fire Brigade ('LFB') and the emergency operators to 'stay put' inside the flats. The order was only revised at 2:47am, even though it became clear at 1:26am that the stay put policy had failed.¹ In total, 72 people lost their lives as a result of the fire, 70 were injured, and 223 people escaped the building. The disaster

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¹ John Preston, *Grenfell Tower: Preparedness, Race and Disaster Capitalism* (Palgrave MacMillan 2019) 38.

reflects collective inaction on the part of lawmakers to regulate some of the most basic aspects of the right to decent and adequate housing over a period of several decades.²

The fire speaks to the failure of state authorities, notably the Royal Borough of Kensington and Chelsea, which in April 1996 had sub-contracted the management of its entire social housing stock to a private entity, the Kensington and Chelsea Tenant Management Organisation ('KCTMO') to provide adequate health and safety regulations, such as mandatory sprinklers, which could have saved lives on the night. The lack of regulation is simultaneously a failure on the part of the state to protect the right to life under Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ('ECHR') 1950. The Human Rights Act 1998 ('HRA') requires public authorities to act in a manner that is compatible with the 'Convention rights' set out in section 1 with reference to rights contained in the ECHR.³ It also requires domestic courts to interpret legislation so far as possible in a manner that is compliant with the ECHR, and empowers courts to award damages where Convention rights have been violated.⁴ The ECHR must be interpreted 'in the light of its object and purpose'.⁵ Central to this is the doctrine of 'effectiveness', also known as 'innovative interpretation', which requires courts to give the fullest weight and effect to the underlying purpose of protecting human rights. The underlying justification for the doctrine of effectiveness is that member states cannot protect Convention rights simply by inactivity but under certain circumstances are required to undertake positive actions to protect rights, even if this requires expenditure.⁶ In determining whether positive obligations exist or not, the court has to have regard to the fair balance that must be struck between the competing interests of the individual and the broader community.

It is important to point out that Article 2 does not solely concern deaths resulting from the use of force by agents of the state but includes a positive substantive obligation on states to take appropriate steps to safeguard the lives of those within their jurisdiction.⁷ It is clear that the Council's decision-making, and its parallel lack of action, contributed to the deaths of the 72 Grenfell residents.⁸ Where a violation of the substantive positive obligation – namely, the state being obliged to institute and maintain an 'effective system of deterrence' against the threat to life in Article 2 – is established, compensation for pecuniary and non-pecuniary damage are in principle possible as part of the range of redress available.⁹ It is therefore possible, according to Bright and Maxwell,¹⁰ that the Council could be made liable in judicial review proceedings for its systemic regulatory failures, as the residents only discovered, post-

² There were no sprinklers in the Tower, which could have ameliorated the rapid acceleration of the fire inside the tower block, there was only one staircase and one designated emergency exit for residents: Preston (n 1) 34. The right to housing is defined in Article 31 of the Revised European Social Charter, an addendum to the original Charter <<https://rm.coe.int/168007cf93>> accessed 7 January 2019. Although the UK hasn't signed up to the Revised European Charter, it has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), which codifies the right to housing in Article 11. International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3. The United Kingdom signed the Convention in 1968, and ratified it in 1976.

³ HRA 1998, s 6.

⁴ *ibid*, s 8.

⁵ Susan Bright and Douglas Maxwell, 'Human Rights and State Accountability for Fire Safety in Blocks of Flats' (14 June 2019) Housing After Grenfell Working Paper No 1, 11.

⁶ *ibid*.

⁷ *ibid* 12.

⁸ The KTMO assumed responsibility for the management and maintenance of 9,760 properties from the Council, including Grenfell Tower, under the UK Government's Housing Right to Manage Regulations 1994. In 'Communities and Local Government: Giving Tenants Control: Right to Transfer and Right to Manage Regulations': <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/8372/2106007.pdf> accessed 7 January 2019.

⁹ *ibid* 2.

¹⁰ Bright and Maxwell (n 5) 12.

Grenfell, that their unremediated homes were unsafe. This could form an ongoing violation of Article 2 of the ECHR, even in a domestic court of law.

In parallel to the human public inquiry the Council is one of the entities now under criminal investigation for its role in awarding the contract for the refurbishment of Grenfell Tower to Rydon, a large construction company in charge of the refurbishment of the Grenfell Tower.

2. The Grenfell Tower fire - A Sequence of Failure

The Grenfell Tower fire broke out in the early hours of 14 June at 12:54am in a high rise, 24-storey block in the Royal Borough of Kensington and Chelsea, one of the richest local authorities in the UK. Throughout the first part of the night and well into the early hours of the morning, residents were told to stay put in their flats and to wait for firefighters to rescue them, despite obvious evidence on the ground, made evident to the fire brigade as the fire was spreading, that the 'stay put' policy was no longer appropriate. The fire had engulfed the building within 45 minutes. Yet, no evacuation orders were given by the LFB.¹¹

Having originally started in the kitchen of a flat on the 4th floor, most likely due to a faulty fridge, the fire had initially been extinguished by a group of firefighters who were the first to arrive on the scene. However, upon making their way out of the building, the firefighters realised that the fire had spread up much of the building. Once it became evident that the fire had covered most of the building, additional fire fighters were called and extra emergency staff were deployed to the site. Images from the night clearly show falling debris, blazing flames, people waving in a panic from windows, and residents who had made it out to safety just in time, alongside neighbours standing by helplessly and in despair. It quickly became clear that the fire would have tragic consequences leading to the loss of lives, as residents had predicted some months earlier on a blog run by residents of the Tower and the surrounding Lancaster West Estate¹²

As the residents have argued since 2016, it was a mix of complacency, negligence, and incompetence both on the part of KCTMO and the Council that materially contributed to the high death toll at Grenfell Tower. Both organisations had ignored residents' concerns over a number of years. This finding significantly added to the stark realisation that the disaster could have been prevented. Not only was the fire itself entirely preventable, but the events of the night added to the feeling of anger, hostility, and helplessness on the part of residents. The organisations in charge of protecting health and safety and of ensuring safe homes had simply failed to prevent a disaster of enormous magnitude and consequence through a combination of greed, corruption, ineptitude, indifference, and sheer disregard for the health and safety of the residents, or their right to life. Added to that was the realisation that politicians in the years preceding the Grenfell Tower fire had failed to enact legislation and implement stronger fire safety protections for social housing residents. The Grenfell Tower

¹¹ In its recent report into the Grenfell Tower Fire, the Equality and Human Rights Commission (EHRC) recommends that the fire safety measures pertaining to Grenfell Tower need to be urgently revised. It suggests, for example, that alternatives to the 'stay put' policy should be adopted for buildings with similar cladding to that at Grenfell Tower. It acknowledges that the 'stay put' policy was devised as an alternative to evacuation in buildings designed and constructed to contain a fire, but that this policy failed tragically at Grenfell. By the time the error was recognised, it was already too late to try and evacuate the residents. See further details in 'Summary of Submissions following Phase 1 of the Grenfell Tower Inquiry' 6: <https://www.equalityhumanrights.com/sites/default/files/summary-of-submissions-following-phase1-of-the-grenfell-tower-inquiry.pdf> accessed 8 July 2019.

¹² The blog entries of the Grenfell Action Group can be found here: <https://grenfellaactiongroup.wordpress.com/> accessed 13 May 2019.

fire was not an accidental occurrence, it was made possible by a series of political decisions over the past three decades to deregulate the housing sector and to divest local authorities of their housing stock and of their power of management. It was also the result of a collective political failure to pass legislation that would improve health and safety standards for residents in tower blocks across the United Kingdom.

A recent investigation by the housing magazine *Inside Housing* revealed that Gavin Barwell, the Minister for Housing and Planning from 2016 to 2017, repeatedly ignored emails warning him about fire safety in tower blocks which had been sent by the All-Party Parliamentary Fire Safety Rescue Group.¹³ This was in spite of a previous fatal fire in a residential tower block in South London, the Lakanal Tower fire, which will be examined below.

As Vickie Cooper and David Whyte have argued '[t]he Grenfell fire can only be understood as the result of a complex configuration of collectively produced decisions made by individuals working in organisations.' These decisions are not part of a form of violence traditionally understood in the legal sense. These acts are not directly inflicted upon the subject, but rather involve '[a] more remote proximity, in time and space between the offender and the victim than we find in cases of interpersonal violence.'¹⁴ In this way, the Grenfell Tower fire symbolises a more insidious form of violence, because it cannot be immediately, or instantly, captured by the law or by legal regulation. It was made possible by a total institutional and individual failure among the political establishment to take seriously the precarity of living conditions in high rise tower blocks.

3. The Refurbishment and Fatal Decision to Use Flammable Cladding for Grenfell Tower

One of the most startling revelations after the Grenfell Tower fire was made by the Metropolitan Police. It revealed that at least 60 companies and bodies were involved in the tower's 2014-2016 refurbishment.¹⁵ In addition, a total of 383 organisations were connected with its original construction, or subsequent management and maintenance. This is symptomatic of the 'splintered governance' in public housing which has manifested itself over decades of privatisation and *demunicipalisation*. It was very much in line with the introduction of Private Finance Initiative ('PFI') schemes in housing regeneration, first introduced by the New Labour under Tony Blair.¹⁶

The cladding of Grenfell Tower was made of aluminium composite panels that were combustible and highly flammable. The cladding used on Grenfell was Reynobond PE. It was manufactured from aluminium panels containing a plastic filling that was popular in cost-conscious council refurbishment schemes.¹⁷ It was manufactured by the US manufacturer called Arconic. It subsequently emerged in the media that the reason for the choice of the cheaper cladding was directly related to the Council's cost-reduction agenda; its goal was to

¹³ Peter Apps, 'PM's Chief of Staff did not act on multiple warnings about fire safety in the months before Grenfell, new letters show' *Inside Housing* (London, 13 June 2019) <<https://www.insidehousing.co.uk/news/news/pms-chief-of-staff-did-not-act-on-multiple-warnings-about-fire-safety-in-months-before-grenfell-new-letters-show-61883>> accessed 15 July 2019.

¹⁴ Vicky Cooper and David Whyte, 'Grenfell, Austerity, and Institutional Violence' (2018) *Sociological Research Online* 2.

¹⁵ Stuart Hodgkinson, *Safe Houses: Private Greed, Political Negligence and Housing Policy after Grenfell* (Manchester University Press 2019) 56.

¹⁶ *ibid.*

¹⁷ Tom Symonds and Claire Ellison, 'Grenfell Tower Fire Failed to Meet Standard', (BBC News, 5 April 2018) <<https://www.bbc.co.uk/news/uk-43558186>> accessed 11 February 2019.

save money, a total of £300,000. This in turn played a significant role in the choice of Rydon as the key contractor in the refurbishment process of the tower, instead of Leadbitter, which charged significantly higher rates. Initially, Leadbitter had been awarded the contract for the refurbishment of Grenfell Tower for a total of £11.27 million.¹⁸ However, KCTMO then put the contract out to tender again in order to find a cheaper contractor, awarding the contract to Rydon. This decision was made in 2014, when the Council ran a surplus budget of £274 million.¹⁹ As Stuart Hodgkinson argues, “cost cutting” involved removing key parts of the contract or engaging in so-called “value engineering”, which is an industry euphemism for using cheaper materials and systems than originally specified. It was “value engineering” that turned Grenfell’s cladding from fire safe to flammable.²⁰ In housing PFI schemes, any higher cost that could not be cut usually became the responsibility of the local authority to finance, placing it under “constant pressure” to transfer resources from other parts of the housing budget to pay for its PFI obligations. The decision to save cost in the refurbishment of Grenfell Tower also came against the backdrop of a Council-led policy to offer a council tax rebate to the wealthiest residents in the borough.²¹

4. Fires Foretold

The systemic neglect of social housing stock and social housing tenants did not arise in a vacuum. There were precedents and warnings about the use of combustible cladding on tower blocks and the de-regulation of social housing stock. In 2009, there was a ferocious fire at Lakanal House, a residential slab block in Camberwell, South London, which led to the deaths of six residents. The fire had started on 3 July, 2009 in a television on the 9th floor of the block. Similarly to Grenfell Tower, it spread rapidly through the building, which was completed in 1959 and consists of 98 maisonettes.²² Like Grenfell, the building was clad in combustible material; there were no communal fire alarms or sprinklers in the building, and its residents were told to stay put inside their flats by the LFB. Southwark Council, which was responsible for the management of the building, had originally decided to demolish the block, before changing its mind in 1999, instead choosing to invest £3.5 million into refurbishment work. In an echo of the structural failures exposed at Grenfell Tower, an inspection of the building following the fire revealed breaches of fire resistant structures, a lack of compartmentation in the suspended ceilings, and a failure to provide smoke seals on fire doors.²³ In the wake of the fire, the residents strongly criticised the layout of the flats, which

¹⁸ Cooper and Whyte (n 14) 3; See also Preston (n 1) 32.

¹⁹ Katie Forster, ‘Grenfell Tower’s fireproof cladding was ‘downgraded to save £293,000’ show leaked documents’ *The Independent* (London, 30 June 2017) <<https://www.independent.co.uk/news/uk/home-news/grenfell-tower-cladding-fireproof-downgrade-save-money-cut-cost-293000-leak-documents-north-a7815971.html>> last accessed 11 February 2019; Ella Jessel, ‘Council dropped plan to fit Grenfell Tower with Fire-resistant Cladding’ *Architects Journal* (London, 9 May 2018) <<https://www.architectsjournal.co.uk/news/council-dropped-plan-to-fit-grenfell-tower-with-fire-resistant-cladding/10030835.article>> accessed 8 April 2019.

²⁰ Hodgkinson (n 15) 85.

²¹ Rajeev Syal and Harrison Jones ‘Kensington and Chelsea council has £274m in reserves’ *The Guardian* (London, 20 June 2017), <<https://www.theguardian.com/uk-news/2017/jun/19/kensington-chelsea-council-has-274m-in-reserves-grenfell-tower-budget-surplus>> accessed 25 October 2019.

²² Damien Gayle, ‘Southwark Council pleads guilty over worst ever Tower Block Fire’ *The Guardian* (London, 24 February 2017) <<https://www.theguardian.com/uk-news/2017/feb/24/southwark-council-admits-safety-failings-tower-block-lakanal-house-blaze>> accessed 11 February 2019.

²³ Kurt Barling, ‘Lessons from Lakanal House were not heeded-then Grenfell happened’ *The Conversation* (London, June 28 2017) <<https://theconversation.com/lessons-from-lakanal-house-were-not-heeded-then-grenfell-happened-80051>> accessed 11 February 2019.

did not allow easy escape, and pointed out that there was no central fire alarm system – something not required by the Approved Document B guidance.²⁴ Just like at Grenfell Tower, there was only one staircase in a residential tower of 98 flats.

5. The Lakanal House Fire Inquest

The government set up an inquest into the deaths in 2013 finding that opportunities to prevent the disaster had been missed. In particular, the jury pointed out that Southwark Council had made numerous mistakes in the run up to the fire, highlighting steps that could have been taken to prevent or slow the spread of the fire. The Inquest focused on the cladding panels that had been fitted as part of the refurbishment in 2006/2007, which were found to offer less fire resistance than the panels they replaced. This had enabled the fire to spread more rapidly than expected. According to the jury, this was due to ‘a serious failure’ on the part of Southwark Council’s building design services, its contractors and its sub-contractors. The Coroner made recommendations to Southwark Council, the Department of Communities and Local Government and the London Fire Brigade. A key aspect of the recommendations was that guidance on the scope of fire risk assessments and on the building regulations should be made clearer. In 2017, Southwark Council pleaded guilty to four charges concerning breaches to fire safety regulations. Fines amounted to £270,000 plus £300,000 costs.²⁵

The Lakanal House Coroner’s report, a major, jury-led inquest into the tragedy had recommended that social housing owners compile lists of buildings with ACM cladding and send samples of the cladding for fire tests for tower blocks of a certain height (18 metres and above, according to the Annex of Approved Document B), But this was not implemented into law by politicians who subsequently assumed power following the 2010 General Election. After 50 days of painstaking evidence, the jurors returned narrative verdicts for all six victims. The coroner, HHJ Frances Kirkham, then sent a series of letters to public bodies containing recommendations ‘to prevent further death’. Included in the bundle was a letter to the government – specifically to the Department for Communities and Local Government (‘DCLG’), which was responsible for housing and building regulations and was led at that time by Eric Pickles MP, who had been elected in 2010.²⁶ Amongst the recommendations made to the Coroner during the Inquest was the specific proposal to make sprinklers compulsory in high rises, as they could put out the fire and save lives. Mr Pickles was directly told to ‘encourage providers of housing in high-rise residential buildings to consider the retrofit of sprinkler systems.’²⁷ This request was never implemented.

HHJ Kirkham had also heard days of detailed evidence about the necessary fire rating for the window panels that had helped the flames rip up the outside of the tower. The required legal standard for the panels was a rating known as ‘Class 0’. This standard mainly examines the spread of flames over the surface of a material. Dangerous composite materials can meet the standard if they have a non-flammable surface, like

²⁴ *Fire Safety Approved Document B*

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/485420/BR_PDF_AD_B1_2013.pdf>.

²⁵ ‘Lakanal House Fire Deaths: Council Fined for Safety Breaches’ (BBC News, 28 February 2017) <<https://www.bbc.co.uk/news/uk-england-london-39116172>> accessed 11 February 2019.

²⁶ Peter Apps, ‘Special Investigation -The lost Lessons of Lakanal: How Politicians Missed the Chance to Stop Grenfell’ *Inside Housing* (London, 13 June, 2019)

<<https://www.insidehousing.co.uk/insight/insight/special-investigation--the-lost-lessons-of-lakanal-how-politicians-missed-the-chance-to-stop-grenfell-61834>> accessed 10 June 2019.

²⁷ *ibid.*

aluminium. The jury found that the panels, made by the manufacturer Trespa, did not meet even the Class 0 standard. But there was an important line in their verdict which suggested they did not even think Class 0 was adequate.

When HHJ Kirkham wrote to the government, she asked it to review the official guidance 'with particular regard to the spread of fire over the external envelope of the building'. Given this recommendation and the jury's verdict, the government should have urgently looked at whether Class 0 was sufficient. Eric Pickles replied to the Coroner in May of 2013, replying that new official building guidance would be published by 2016/17. He also assured the Coroner of his commitment to ensuring that the safety of residents in high-rise buildings continued to be a priority. However, none of the recommendations made by the Coroner for tighter regulations in fire safety including the retrofitting of sprinklers in all residential tower blocks across the country were implemented. Instead, politicians chose to sit on the recommendations, and kept delaying regulation of improved health and safety standards.²⁸

Additionally, the Lakanal House Inquest had made specific recommendations to MPs to urge the reconsideration of the 'stay put' policy and to advocate for its abandonment and reversal in fires in all residential high rise tower blocks above 10 storeys. John Preston argues that the 'stay put' strategy adopted at Grenfell Tower has historically been used as a social strategy to keep the racialised working class in tower blocks in emergencies rather than encouraging them to spontaneously evacuate.²⁹ Given that the science of tower blocks is complex, the use of 'equivocal' language in addition to 'stay put' leads to 'probabilistic eliminationism' amongst the racialised working class in a tower fire block. What happened at Grenfell Tower, therefore, was congruent with a political strategy of 'probabilistic eliminationism'. According to Preston, the advice given to the residents of Grenfell Tower to 'stay put' in the event of a fire was loosely based on behavioural science.³⁰ Although not an exact science, 'preparedness' distinguishes itself from behavioural science in that it is designed to prepare people for an emergency and it may (or may not) be derived from behavioural science. The idea is essentially to try and inform, or guide people towards a particular course of action. Cascading chains of events and various points where safety might fail make events such as tower block fires very difficult to model behaviourally, which makes 'unequivocal advice', such as 'stay put' a dubious strategy, according to Preston.³¹

The state, thus, has a conception of a 'model citizen', who is the subject of preparedness and ultimately the state is self-interested, putting its interests (and those of capital) above that of citizens.³² The Grenfell Tower Fire was predictable; it cannot therefore be labelled as an accident. According to Preston, the Grenfell residents did not enter into the state's or capital's 'probabilistic nexus' as being sufficiently of value before, during, or after the fire.³³ Although the source of the fire seems to have been accidental, the victims and survivors were trapped in a net of racial and class "disadvantage", according to Preston.³⁴ This made their ultimate deaths more predictable. Powerful interests, or more concretely, capitalist interests may not ever have wished the Grenfell residents to be harmed, but had a vested interest in the non-presence of Grenfell Tower and its inhabitants.

²⁸ Jenny Jones, 'I Said in 2009 We Couldn't Allow More People to Die in a Tower Block Fire' *The Guardian* (London, June 19 2017) <<https://www.theguardian.com/uk-news/commentisfree/2017/jun/19/grenfell-tower-lakanal-house-inquest-fire-safety>> accessed 11 February 2019.

²⁹ Preston (n 1) 31.

³⁰ *ibid* 4.

³¹ *ibid*.

³² *ibid* 34.

³³ *ibid*.

³⁴ *ibid*.

It is therefore not surprising that despite the recommendations by the Coroner in the Lakanal House Inquest the 'stay put' policy was not amended by subsequent governments in charge. According to Edward Kirton-Darling, recommendations received after the Lakanal House fire received little attention. As he put it: 'The jury charged with hearing evidence on the deaths of the 6 people who died in Lakanal House returned damning narrative verdicts, finding that opportunities to do fire risk assessments were missed, and some refurbishment which had been done had not provided adequate resistance to fire.'³⁵ But in the years that followed, there was no review of building regulations and neither pressure nor funding were applied to require the retrofitting of sprinklers. Housing experts today consider the failure to implement the recommendations made by the Lakanal House Inquest as one of the greatest policy failures in the modern world.³⁶

During Phase 1 of the Grenfell Fire Inquiry, set up in the wake of the Grenfell Tower fire in 2018, it emerged that the LFB had been underprepared to deal with an event of such magnitude. In fact it had not been trained at all to deal with an event where the cladding of a tower block would be flammable, and where the 'stay put policy' from the outset would inevitably fail, as had been the case on the night of the fire.³⁷ Moreover, when Grenfell Tower burned, the official guidance on building regulations was the same as it was in 2013. The cladding wrapped around the outside of the tower was certified to Class 0. There were no sprinklers to be found anywhere in the tower.

6. Deregulation and the Absence of the Law

Decades of building deregulation, with the shift to a more flexible interpretation of standards, are a major cause of the use of combustible cladding on Grenfell Tower as well as, to date, 468 other buildings across the UK. Prior to 2006, Approved Document B of the UK's building regulations clearly banned combustible cladding and insulation in buildings over 18 metres high. But many commentators have argued that this ban was relaxed in 2006 as a result of deregulatory changes ostensibly designed to fulfil the UK's promise to reduce carbon dioxide emissions under the 1997 Kyoto Agreement.³⁸

The regulation of the housing sector also raises issues around the flagship 'Right to Buy' policy which was first introduced by Margaret Thatcher's Conservative government in 1979, and implemented via the Housing Act 1980. According to Stuart Hodkinson, 1979 undoubtedly marked the 'decisive turning point' in public policy towards housing.³⁹ Taking advantage of the global capitalist crisis of the 1970s that broke the Keynesian class 'deal', and the Labour government's introduction of austerity under the conditions imposed by the International Monetary Fund's bailout deal following the sterling crisis, the election of Margaret Thatcher ushered in the implementation of a neoliberal project aimed at transforming the entire housing system. The aim was not only to privatise the existing public stock, but to end the role of the state in directly meeting housing need. According to Jessie Hohmann, the New Labour government had a target of selling 200,000 council homes per

³⁵ Sandy Fleming, 'Expert Comment: Grenfell Tower-the part of Right to Buy and lessons not learned' (June 2017) University of Kent: News Centre Comment: Grenfell Tower-the part of Right to Buy and lessons not learned Report <<https://www.kent.ac.uk/news/society/14072/expert-comment-grenfell-tower-the-part-right-to-buy-plays-and-lessons-not-learned>> accessed 11 February 2019.

³⁶ Apps, 'Special Investigation' (n 26).

³⁷ Tom Symonds, 'Grenfell Tower Fire: Five Things Firefighters Told Us About the Fire' (BBC News, 2 October 2018) <<https://www.bbc.co.uk/news/uk-45719152>> accessed 20 May 2019.

³⁸ Hodkinson (n 15) 41.

³⁹ Stuart Hodkinson et al, 'Introduction: Neo-Liberal Housing Policy-Time for a Critical Re-Appraisal' (2012) 33(1) Critical Social Policy 4.

year, which was complemented by large-scale 'regeneration' schemes in areas which were deemed to have had 'failed' housing markets.⁴⁰ These 'regenerations' often unfolded through the demolition of existing council estates, the displacement of their residents, and their replacement with new private housing. Privatisation increased significantly and particularly under the New Labour government and the privatisation started by New Labour has been continued by subsequent administrations, including the Coalition government which was formed following the 2010 General Election, as well as David Cameron's subsequent majority government and the government formed by Theresa May following his resignation in 2016. 'Right to Buy' has, therefore, been continuously expanded by numerous governments of varying political colours. According to Hohmann, the combined effect of these policy changes means that, now, council housing has become increasingly 'residual'.⁴¹ This has resulted in a striking change in the residents living in housing of different tenure types: where once only the better-off of the working classes enjoyed social housing tenure, now social housing is now seen as the space of the most precarious, marginalised, and economically disadvantaged in society.

Thatcherism, thus, turned the post-war consensus on its head, aiming to shrink the state's housing role to an 'ambulance service' for the 'genuinely weak'.⁴² Her aim was to establish a 'property-owning' democracy in which the vast majority of people would be encouraged to act like 'little capitalists' in the housing market, treating shelter as a financial asset by speculating on house price inflation and passing on the spoils to their children. One way of achieving this objective was by privatising public housing. Since 1980, 2.5 million homes have been sold to tenants at large discounts under the 'Right to Buy', the vast majority of which have never been replaced.⁴³ This paved the way for the UK housing crisis, as deregulatory policies were strongly supported by the New Labour government. The housing crisis was further aggravated by the Conservative-led policies of austerity, which began in 2010. Austerity has hit the poorest the hardest, including families living in social housing tower blocks. As Hohmann argues, despite the strong language of rights attached to the 'Right to Buy', human rights are absent from its discourse.⁴⁴ Housing is therefore viewed as an asset, premised on the private acquisition of property, not on human rights as rights to equal dignity and moral worth, and not on social solidarity as implicit in the post-war notion of council homes being 'fit for heroes'.⁴⁵ But the real story of how social housing was allowed to fall into such dire straits is concerned with *demunicipalisation*, as Stuart Hodgkinson argues.⁴⁶ Instead of allowing local authorities to invest directly in repairing and modernising their remaining housing stock, both Conservative and Labour governments since 1979 have sought to make such funding conditional on local authorities agreeing to sell off or outsource the management, maintenance, and even regeneration of public housing to commercial actors.

Key housing legislation played a central part in the privatisation and 'demunicipalisation' process with the 1988 Housing Act, for example, marking a further deregulatory advance by ending local authorities' statutory requirement to directly meet

⁴⁰ Jessie Hohmann, 'Resisting Dehumanising Housing Policy: The Case for a Right to Housing in England' (2017) 4(1) QMHRR 12.

⁴¹ *ibid.*

⁴² *ibid.* 6.

⁴³ Jessie Hohmann's research shows that since 1980, over 2 million social homes have been privatised. Hohmann (n 40) 13.

⁴⁴ *ibid.*

⁴⁵ As Hohmann argues, it was not until World War II that the emphasis on social housing provision shifted from the working class to encompass all sectors of the population. The shift was partially achieved because adequate housing-'Homes fit for Heroes'-was seen as an entitlement of the returning servicemen. *ibid.* 10.

⁴⁶ *ibid.* 6.

housing need and re-defining them as strategic 'enablers'.⁴⁷ This meant that the ability of councils to manage and repair their housing became increasingly constrained by the slashing of housing budgets. The deregulation was accompanied by strict financial controls on local authority borrowing. It led to a small number of mainly Conservative-led rural authorities in the South of England selling off their entire housing stock to existing and specially formed housing associations, a process also motivated for some by the incentive of 'generating very large proceeds from the sale of housing stock'.⁴⁸ In addition, under the 1988 Housing Act, private landlords were given powers to evict tenants at will, without having to show any grounds, and tenancies could be cut short by six months, further weakening the powers of tenants to negotiate their way.⁴⁹

After 1992, the process of deregulation escalated and the process of 'Large Scale Voluntary Transfer' – known as 'stock transfer' – was turned into a national government programme. By 1997 around 280,000 dwellings and tenant households had been 'voluntarily' transferred to the housing association sector. Responsibility for building new social rented housing was passed to housing associations with increased reliance on private finance. This led to the long-term centralisation and commercialisation of the non-profit sector. This tension between fighting privatisation and pushing for tenant control also resurfaced during the Parliamentary scrutiny of the Labour government's 2007 Housing and Regeneration Bill.⁵⁰ The Bill, which was passed in 2008, was mainly concerned with increasing the supply of new private house building, but it also represented a further attack on the public housing model. It was opposed by Defend Council Housing (DCH) – a coalition of mainly left-wing Labour MPs and councillors, tenants, and trade unions, who sought to obtain support from within the English tenants' movement for a return to the post-war consensus of direct investment in new council housing. However, the three official national tenants' organisations – Tenants and Residents Organisations of England (TAROE), the National Federation of Tenant Management Organisations (NFTMO), and the Confederation of Co-operative Housing (CCH) – failed to oppose the government's Bill. Instead, they prioritised 'tenant empowerment' within the current social housing sector as the basis for long-term transformation towards a community housing model 'based on tenant and community ownership, control and membership'.⁵¹ As we later saw at Grenfell, this model applied in practice was not fit for purpose.

By the time of New Labour's landslide victory in the 1997 General Election, public housing building had fallen from 75,000 homes a year to just 1540, with over 1.8 million council homes sold to sitting tenants, helping to expand home ownership from 57% to 68% of UK households. Far from seeking to stop the Conservative's 'demunicipalisation' drive, New Labour got on board, setting a target of transferring 200,000 council homes a year. At the same time it experimented with the Private Finance Initiative (PFI) for particular council estate or stock refurbishment schemes.⁵² Under New Labour, re-enclosing urban space through state-led, market-driven 'regeneration' policies became symptomatic of a wider process of neoliberalisation.

Urban working-class neighbourhoods were deliberately targeted for gentrification by replacing apparently 'obsolete' terraced and estate housing, as well as its 'undesirable' residents, with new private housing developments attractive to middle-class households.⁵³ The process of gentrification, which went hand in hand with the fierce deregulation drive

⁴⁷ Hodkinson et al (n 40) 7.

⁴⁸ *ibid* 8.

⁴⁹ *ibid* 431.

⁵⁰ Stuart Hodkinson, 'The Return of the Housing Question' (2012) 12(4) *Ephemera* 431.

⁵¹ *ibid* 433.

⁵² *ibid*.

⁵³ *ibid*.

described by Hodkinson, Cooper, and Whyte is also the story of the Lancaster West Estate (of which Grenfell Tower is a part) and of its residents, many of whom feel that the disaster of the night of 14 June 2017, was in part allowed to happen because the council decided to make the Tower 'pretty' for the rich residents living elsewhere in the Borough, rather than investing money on making it safe.⁵⁴

7. Deregulation in Building Standards

Alongside privatisation and outsourcing, there has been a high risk game of deregulation in which both the legal standards governing building and housing safety and their enforcement have been fundamentally weakened. While the government declared the Grenfell Tower cladding to be unlawful,⁵⁵ experts believe that the watering down of the wording of building regulations, notably Approved Document B, at the urging of the insulation industry, created a legal route through which combinations of previously outlawed combustible materials, as used on Grenfell, could be used on buildings over 18 metres high.⁵⁶ A more flexible regulatory framework had gone hand in hand with the rise of 'self-regulation', with an estimated 85 percent of all building work previously requiring third-party inspection now being self-certified. According to Hodkinson, decades of building deregulation, with the shift to more flexible interpretations of standards, are a major cause of the use of combustible cladding on Grenfell Tower and 468 buildings to date.⁵⁷ Prior to 2006, Approved Document B of the UK's Building Regulations clearly banned combustible cladding and insulation in buildings over 18 metres high. But this ban was relaxed in 2006 as a result of regulatory changes ostensibly designed to fulfil the UK's promise to reduce carbon dioxide emissions under the 1997 Kyoto Agreement. After Kyoto, the EU issued a new European Directive of Energy Performance of Buildings in 2002 that asked member states such as the UK to improve the overall energy efficiency of new and existing buildings, primarily through better insulation. Due in part to the enormous cost of insulating millions of homes with more expensive non-combustible materials, the building regulations were 'subtly' changed in 2006 to create an alternative legal route through which combinations of combustible materials, previously outlawed, could be used.⁵⁸ The changes were linked to a closed-door industry consultation run by the privatised BRE, which included representatives of the combustible insulation industry previously prevented from supplying high-rise developments. In 2014, the Building Control Alliance (BCA), which represents building officials, agreed to formalise the approval of the cladding without it being fire-tested as a system, through the use of 'desktop study reports' based on existing test data supplied by government-accredited testing bodies, including BRE.⁵⁹

In addition, the use of combustible cladding highlights a further regulatory gap in England, namely, the weak rules governing the fitting of sprinkler systems to high-rise blocks.⁶⁰ Sprinklers are required only in new residential tower blocks over thirty metres high. There is no requirement for retrospective action. This is despite the All-Party Parliamentary

⁵⁴ Andrew Griffin, 'London Fire: Cladding was Added to Help 'Regenerate' Grenfell Tower Kensington MP says' *The Independent* (London, 16 June 2017) <<https://www.independent.co.uk/news/uk/home-news/london-fire-grenfell-tower-kensington-mp-emma-dent-coad-cladding-refurbishment-a7792901.html>> accessed 15 July 2019.

⁵⁵ Tom Symonds, 'Grenfell: Government Changes Controversial Cladding Advice', *BBC News* (London, 12 July, 2019). <https://www.bbc.co.uk/news/uk-england-london-48969819>>accessed in September, 2019.

⁵⁶ Hodkinson (n 14) 9.

⁵⁷ *ibid* 41.

⁵⁸ *ibid* 42.

⁵⁹ *ibid*.

⁶⁰ *ibid*.

Fire Safety Rescue Group of MPs repeated private warnings to government ministers about the need for urgent action following the Lakanal House Fire.⁶¹ In contrast, in Scotland sprinklers have, since 2005, been required in any new buildings above 18 metres and in Wales, all new or refurbished residential buildings have had to have them.⁶²

The gaps in legal regulation discussed, therefore, raise questions about the lack of accountability, deregulation, and the absence of health and safety protections for residents. They speak to the gradual deregulation of social housing and financialisation of the housing sector through a transfer into the hands of private landlords and housing associations, which are not classified as public bodies for judicial review purposes. It is therefore impossible for any legal action to be brought on the basis of illegality, or breaches of the Human Rights Act 1998. Deregulation paired with a systemic neglect of improvement and repairs to tower blocks around the UK contributed to a chain of events with fatal consequences on the night of the Grenfell Tower fire. The decision made by the Royal Borough of Kensington and Chelsea to choose the most cost-effective companies to undertake refurbishment projects of residential towers meant that a myriad of sub-contractors would get involved in these projects, with little vetting.

For social housing tenants, a combination of *demunicipalisation* and deregulation have transformed what used to be a clearer and more democratic line of landlord accountability into a highly fragmented set of often conflictual relationships between multiple actors all chasing the bottom line. As Hodkinson describes it in his study of social housing communities nationwide, residents find themselves 'routinely fobbed off' and passed around their landlord and its contractors and then frequently rebuffed by their local councillors, MPs, government departments, and various regulatory bodies all of whom claim not to be responsible for dealing with residents' concerns.⁶³ They are also locked out of the legal system, due to the gradual dilution of tenants' statutory rights to repair, as well as cuts to legal aid. This is especially the case for council tenants. Under existing legislation, local authorities' environmental health officers are legally prevented from using their health and safety and enforcement and prosecution powers on their housing department or any management or subsidiary acting on its behalf.⁶⁴ It was precisely this legal vacuum that Grenfell residents faced when trying to challenge what they saw as the health and safety risks posed by the refurbishment and carefully documented on the Grenfell United Action blog.

Moreover, one important facet in the systematic drive for deregulation over decades has been the introduction of the Regulatory Reform (Fire Safety) Order by Blair's Labour government. It came into effect in 2006 and its key aim was to consolidate the existing fire safety legislation into one piece of legislation. One of the provisions of the new legislation changed the rules on how buildings are assessed for fire risk. Most significantly, and in a further instance of deregulation in the housing sector, the 2005 Order replaced the need for fire certificates with a risk-assessment approach. This means that a 'responsible person' (usually whoever is in control of the premises) has to ensure that a fire safety risk assessment of the building is carried out.⁶⁵ If they are not able to carry one out, this is done by a 'competent person' who needs to have 'sufficient training and experience or knowledge and other qualities' to carry it out properly. The result of the change in legislation through consolidation is that fire safety assessments today no longer need to be carried out by trained fire safety experts, thus further removing basic health and safety checks from the remit of state authorities.

⁶¹ Apps (n 13).

⁶² Hodkinson (n 14) 42.

⁶³ *ibid* 9.

⁶⁴ *ibid* 7.

⁶⁵ The Regulatory Reform (Fire Safety) Order 2005, No 1541.

In the case of the Lakanal House Fire, for example, Ms Catherine Hickman, a resident who died in the fire, was a private tenant in a flat. Her property was no longer directly managed by the local authority; it was owned by a private leaseholder under the 'Right to Buy', who then rented it to her. According to the evidence provided by Kirton-Darling at the Lakanal House Inquest, 'The modifications had been undertaken by the leaseholder, and had been approved by Southwark as a freeholder, but with the recommendation that they be checked for fire safety by Southwark's Building Design Services.'⁶⁶ This check never took place. This is symptomatic of much of the practices currently taking place in the housing sector, which has been beset by years of deregulation, a complete lack of implementation of health and safety standards, a disregard for the concerns of residents and tenants, and a failure to carry out inspections of structural concerns in buildings, despite such promises being explicitly made to residents. It also speaks of a failure on the part of architects and planning commissioners to mandate that sprinklers be installed in all residential tower blocks and that emergency exit routes and additional stairways be introduced in all residential tower blocks.

As mentioned previously, questions have been raised around the lack of sprinklers for a building the size of Grenfell Tower and with as many residents living in the tower. It is one of the most pressing questions: why there is still no legislation in place that mandates the retrofitting of sprinklers in tower blocks? At present, only new high-rises need such a system. In 2014, the then Minister for Housing and Planning, Brandon Lewis MP, failed to make sprinklers compulsory for high-rises above 30 metres, in a distinctly political decision. As Baroness Jones put it, 'An ideological aversion to red tape, and the deriding of our health and safety culture are political choices'.⁶⁷ Moreover, as the political commentator Nick Ross has stated, 'successive governments wanted to cut red tape, they all wanted to save money and – here's the key to why nothing was done – fire deaths were going down anyway.'⁶⁸

It took eleven dead in a blaze at the Rose & Crown in Saffron Walden in Essex 48 years ago to pave the way for building regulations in the Fire Precautions Act 1971. At the time, the hotel had no proper alarm, no fire doors, and no emergency exit. It was established that at Grenfell Tower, on the night of the fire, there was no audible alarm to residents. But as Nick Ross argues, 'sprinklers are the gold standard in fire control. They are cheap, simple and effective.'⁶⁹ They are roughly the price of fitted carpets, even when retro-fitted. In 95 per cent of cases where buildings are comprehensively protected, a fire is controlled by sprinklers alone. Whilst they alone could have not entirely prevented the fire from spreading, they would have ensured that the upper flats in Grenfell Tower were protected from the spread of the fire.

8. The Hackitt Report: Building a Safer Future: Independent Review of Building Regulations and Fire Safety: Final Report

The article has so far discussed how the chain of deregulatory events, that further divested the management of housing stock from local authorities to private social housing providers, indirectly contributed to the fatal decisions that were made in relation to the refurbishment of Grenfell Tower. This was part of a wider trend of financialisation of the housing sector in the

⁶⁶ Fleming (n 35).

⁶⁷ Jones (n 28).

⁶⁸ Nick Ross, 'For 15 years I led a campaign to install fire sprinklers...and NO minister from ANY party was interested' *The Daily Mail* (London, 30 June 2017)

<<https://www.dailymail.co.uk/news/article-4652720/NICK-ROSS-campaign-install-fire-sprinklers.html>> accessed 8 April 2019.

⁶⁹ *ibid.*

UK, bringing with it notable cost cutting and omissions in the regulation of health and safety standards.

In order to address some of these long-term systemic gaps in the law around fire safety, in May 2018 the government commissioned Dame Judith Hackitt to produce an extended report into fire safety and building regulations in the United Kingdom. This was published and presented to Parliament for further consideration and the possible implementation of legislation. In her foreword, Dame Hackitt emphasised the need for ‘a radical rethink of the whole system and how it works. This is most definitely not just a question of the specification of cladding systems, but of an industry that has not reflected and learned for itself, nor looked to other sectors’.⁷⁰

She identified four key areas as being in urgent need of reform and which had to be addressed as top priorities by legislators: these were: first, ignorance; second, indifference; third, lack of clarity on roles and responsibilities; and fourth, inadequate regulatory oversight and enforcement tools.

The ignorance she identified stemmed primarily from the fact that regulations and guidance are not always read by those who need to read them. When they do, the guidance is misinterpreted and often misunderstood. The indifference she identifies as the second factor stems from the fact that the primary motivation, as at Grenfell Tower, is to do ‘things on the cheap’, rather than to produce quality homes. When concerns are raised, as was done for years by the Grenfell United Action Group, they are often ignored. There is also a notable lack of clarity on roles and responsibilities as to who is responsible for the management of tower blocks, which has been exacerbated by years of deregulation in the industry. Moreover, there is a notable absence of robust regulatory oversight and enforcement tools. Thus, to date there is no nationwide social housing regulatory body in place. In summary, Dame Hackitt notes that due to the four key factors identified, there has been a ‘race to the bottom’ in the social housing and building regulations industry, caused either through ignorance, indifference, or because the system itself does not facilitate good practice.

The interim report found that the current regulatory system during occupation and maintenance is not fit for purpose for higher risk residential buildings (HRRBs). The key drivers for this are: overlapping regulatory frameworks (the Housing Act 2004 and the Regulatory Reform (Fire Safety) Order 2005) which make it challenging to ensure that there is a sufficient holistic focus on fire safety for HRRBs; the lack of expectation for building safety to be proactively maintained over the building life cycle and for residents to be meaningfully involved; and the difficulty of identifying a duty holder with responsibility for the structural and fire safety of the whole building.⁷¹ This showcases the clear need for more robust legislation and for more enhanced mechanisms when it comes the monitoring of building standards regulations and systems.

Dame Hackitt proposed a new regulatory framework with a focus on multi-occupancy higher risk residential buildings (HRRBs) that have more than 10 floors.⁷² The reform proposed would see the creation of a new Joint Competent Authority (JCA), comprising Local Authority Building Standards, fire and rescue authorities, and the Health and Safety Executive to oversee better management of safety risks in high-rise residential tower blocks across their entire life cycle.⁷³ Significantly, a mandatory incident reporting mechanism for duty holders with concerns about the safety of high risk residential building would be set up as part of this process.

⁷⁰ Judith Hackitt, *Building a Safer Future: Independent Review of Building Regulations and Fire Safety: Final Report* (Cm 9607, 2018).

⁷¹ *ibid* 52.

⁷² *ibid*.

⁷³ *ibid* 54.

Under these proposals, the duty holder would need to nominate a 'building safety manager' with the relevant skills, knowledge, and expertise to assist in discharging their duties and to be available to residents concerned about safety in their building. They will also need to bring in the right additional expertise to undertake work such as fire risk assessments. The duty holder would also have to notify the JCA, residents, and occupiers of other premises in the building of the name and contact information of the building safety manager, or declare that they will take on that role themselves, in this way ensuring cohesion and better enforcement mechanisms in the system. Most importantly, accountability would vest in the duty holder, who would not be able to delegate his duties to a building manager. Once identified, the duty holder would be enabled to proactively manage safety risks. There are powers under the Housing Act 2004 to require improvement and the removal of hazards relating to fire risk across the whole building, but this is a largely reactive system.

If implemented, these recommendations could make a real difference to social housing tenants and private leaseholders, whose voices would finally be reflected and enforced. However, the Hackitt Report has yet to be implemented.

9. The Bodies of Grenfell

It is perhaps not entirely coincidental that the first casualty reported dead, lying under the burned cladding of Grenfell Tower, was a Syrian refugee, called Mohammed Alhajali. He had lived on the 14th floor of the tower having fled the civil war in Syria alongside his brother in 2014.⁷⁴ The finding of the Syrian refugee's body at the foot of the tower, represents what Sherene Razack has described as the 'shared condition of disposability of the migrant's body'.⁷⁵ Disposability, as she sees it is a 'racial condition, the mark of sub-humanity'.⁷⁶ Forced to flee his homeland of Syria for a supposedly better life in the safe UK, Mohamed Alhajali became the first casualty of an entirely man made and preventable disaster. As Sarah Keenan has argued: '[w]hat happened to Mohammed was for me the most horrific demonstration of the taking space with you idea: a space of disproportionate vulnerability to the most extreme forms of violence, which Mohammad Alhajali took with him all the way from Syria to Kensington.'⁷⁷

Social housing residents today are the 'populations marked for disposability, those who are deemed to have no place in the modern, the Indigenous everywhere, and all those who stand in the way of the progress of capital accumulation, are always on their way to becoming waste, their communities targeted for destruction.'⁷⁸ Not only is this an attack on working class communities, but it is also a form of violence that is made possible in the space of the 'domestic Empire'. As Nadine El-Enany argues, the substandard accommodation to which the predominantly brown, black, and Muslim Grenfell victims were confined is indicative of 'ongoing colonial practices of state-sanctioned racial hierarchy and segregation in Britain.'⁷⁹ She argues that the '[t]he hyper-segregation and differential quality of life of North Kensington

⁷⁴ Harriet Agerholm, 'Grenfell Tower Victim's Brother told Firefighters his Sibling was Inside but they 'ignored him' *The Independent* (London, 16 October 2018) <<https://www.independent.co.uk/news/uk/home-news/grenfell-tower-fire-firefighters-inquiry-victim-rescue-a8586496.html>> accessed 15 April 2019.

⁷⁵ Sherene H Razack, 'Human Waste and the Border: A Vignette' (2017) *Law, Culture and the Humanities* (online) 1-13, 4.

⁷⁶ *ibid* 3.

⁷⁷ Sarah Kennan, 'A Border in Every Street': <<https://thedisorderofthings.com/2017/06/29/a-border-in-every-street/>> accessed 10 June 2019.

⁷⁸ *ibid*.

⁷⁹ Nadine El-Enany, 'The Colonial Logic of Grenfell' (Verso Blog) <<https://www.versobooks.com/blogs/3306-the-colonial-logic-of-grenfell>> accessed 10 June 2019.

residents mirrors practices of the colonial era when British authorities instituted spatial ordering on the basis of ideas and practices of racial hierarchy and white European supremacy.⁸⁰ It is therefore not surprising that gentrification took place in North Kensington around Grenfell Tower. The gentrification process itself entails the over-policing of communities racialised as non-white to enhance the desirability of an area and to ensure property prices are not devalued. Khadija Saye, who was killed in the Grenfell fire, for example, could not phone for help on the night of the fire because she had recently been wrongfully arrested and the police had not returned her phone.⁸¹

But Grenfell Tower can also be seen as a form of ‘camp life’. In his writings on the camp as the specific political-juridical structure of modern life, the Italian philosopher Giorgio Agamben has described the camp as follows:

The state of exception, which used to be essentially a temporary suspension of the order, becomes now a new and stable spatial arrangement inhabited by that naked life that increasingly cannot be inscribed into that order. The increasingly widening gap between birth (naked life) and nation-state is the new fact of the politics of our time and what we are calling ‘camp’ is this disparity.⁸²

In other words, the camp as a ‘dislocating localisation’ is the hidden matrix of the politics in which we still live. It is now firmly inside the political system, it is the new biopolitical nomos of the planet. The fire itself, raging inside the confined space of the camp, is then a powerful manifestation and symbol of bare life, and inequality in the UK. This was not an accident, and neither was it unforeseen. Grenfell Tower is the ‘camp’, the space in which the people, who enter it, move about in a zone of distinction and indistinction between the outside and the inside; it is the space in which its inhabitants have been stripped of every political status and reduced completely to naked life. In burning to death inside the tower, the residents became what Agamben describes as ‘bare life’, their dignity never respected, their existence never counted. The fact that these were predominantly people of colour, here, cannot be overlooked. In the present-day, for Agamben, the single most pertinent and emblematic ‘zone of indistinction’, the space within which ‘bare life’ is routinely politicised, is Guantanamo Bay, a threshold space where the rule of law has been usurped and the fundamental right to trial and prosecution after arrest has been effectively suspended.⁸³ As Anthony Downey argues, it is a source of ‘fatal irony’ that at the very moment in which they are bereft of a political community – the very moment in which they are reduced to ‘bare life’ – is the most politicised of moments.⁸⁴ Although Guantanamo Bay is the most obvious zone of ‘indistinction’, such zones do not necessarily have to have a localised topography, and can be national in their scope, such as the ICE detention camps in El Paso, Texas where illegal migrants and asylum seekers are rounded up by US immigration authorities, held in inhumane conditions, separated from their children, and then deported back to their countries of origin, or at risk of death *en route* to the United States. I argue that the zone of indistinction is also found in Grenfell Tower. The residents lived in a permanent ‘state of exception’, due to the precarious and dangerous condition of the tower. The law here becomes a law unto itself and yet beyond law, too. In the absence of any health and safety measures a state of emergency, where the citizen is strategically confused with *homo sacer*, emerges and becomes permanent. When

⁸⁰ *ibid.*

⁸¹ *ibid.*

⁸² Giorgio Agamben, *Means Without End: Notes on Politics* (University of Minnesota Press 2000) 42-3.

⁸³ Anthony Downey ‘Zones of Indistinction: Giorgio Agamben’s “Bare Life” and the Politics of Aesthetics’ (2009) 23(2) *Third Text* 117.

⁸⁴ *ibid.*

an individual such as a refugee, or even a resident of Grenfell Tower (who might incidentally also be a refugee) is deprived of nation-statehood or socio-political identity, the very rights that should protect them cannot do so because they have been abandoned to the 'bare life' of being merely 'human', the non-citizen, bereft of a political community.

10. Conclusion

The night of 14th June 2017 will always be remembered as one of the most harrowing events in London's recent history. It was the worst fire in London since the Great Fire of London in 1666. Aside from the high death toll, the night came to symbolise economic, racial, and class injustice, laying bare the multiple layers of institutional violence of the modern-day state. At the same time, as the article has argued, the fire encapsulated the absence of the law. The lack of regulation of health and safety standards has revealed a stark institutional indifference towards social housing residents both before and after the fire, brought about by decades of deregulation.

To date, 328 buildings across the United Kingdom are still clad in aluminium composite material (ACM), with 221 of those awaiting remedial work to start.⁸⁵ Checks found that 176 private residential towers were wrapped in the same aluminium composite material fitted to Grenfell Tower.⁸⁶ There still is not in place a national programme, or a fund to help residents of private tower blocks remove the flammable cladding of the type found at Grenfell Tower. The process of re-housing Grenfell residents has also not been completed, indicating an ongoing failure on the part of the Council to keep its promise to rehouse all residents within a year. Recent figures show that 15 households are still living in temporary accommodation.⁸⁷ Moreover, the Public Inquiry has so far failed to deliver on the promises made to the survivors and the bereaved, according to lawyers for the families. Despite assurances that the Public Inquiry's Chairman, Sir Martin Moore-Bick would deliver his interim report by spring 2019, those affected by the fire still do not have a date for its release. It will now be early 2020 before hearings resume, later than initially hoped. More than two years after the fire, not a single arrest has been made, although dozens of individuals have been interviewed under caution.

On the 14th of every month, the community around Grenfell gathers to remember those whose lives were lost on the night of the fire and to demand justice. Walking in silence has now taken on a symbolic power; it is an expression of quiet defiance in the face of a tremendous amount of injustice and institutional indifference. The residents who have formed the umbrella group Grenfell United, have vowed not to give up their fight for justice until they get it. They have promised they will leave no stone unturned to ensure that such a tragedy never happens again in the United Kingdom. As the author of the Grenfell United blog Ed Daffarn stated recently before the Housing, Communities and Local Government Select Committee while calling for the creation of a social housing regulator, 'It is essential that a national tenant's voice is created. People have got genuine stories to tell, they just need to

⁸⁵ Daniel Wainwright, 'Grenfell Tower: Hundreds of buildings still have 'unsafe' cladding' (BBC News, 14 June 2019) <<https://www.bbc.co.uk/news/uk-england-48609595>> accessed 10 June 2019.

⁸⁶ Robert Booth, 'Ministers Ready to Fund Replacement of Grenfell-style Cladding' *The Guardian* (London, 8 May 2019) <<https://www.theguardian.com/uk-news/2019/may/08/ministers-ready-to-fund-replacement-of-grenfell-style-cladding>> accessed 13 May 2019.

⁸⁷ Jen Mills, 'Grenfell Families still Living in Temporary Accommodation Two Years Later' *The Metro* (London, 9 April 2019) <<https://metro.co.uk/2019/04/09/grenfell-victims-still-living-temporary-accommodation-two-years-later-9141649>> accessed 15 July 2019.

be heard.⁸⁸ He also argued that it's only luck that has prevented another Grenfell from happening. He concluded with the following words: 'The government won't recover from Grenfell Two.'

⁸⁸ Footage of The Housing, Communities and Local Government Select Committee (4 July 2019) <<https://www.parliamentlive.tv/Event/Index/0c4a7810-eae7-4535-8a63-8bd7f56b67a5>>.