A promise of listening: Migrant Justice and the London Permanent Peoples' Tribunal

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A promise of listening: migrant justice and the London Permanent Peoples' Tribunal

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Abstract: This article explores the Permanent Peoples' Tribunal (PPT) hearing, 'The hostile environment on trial', which took place in London in 2018. When calling a gathering a 'people's tribunal', certain kinds of listening and attention become possible, which are shaped by specific histories and contexts. The author considers the kinds of listening that took place during the London PPT and what changed as a result. She argues that the legal framing that comes with calling a gathering a 'tribunal' both compels and excludes, and the politics of listening for migrant justice within such a space is laden with imperial pitfalls and power relations that must continuously be worked through. Instead of a legal remedy, what results is a social relation – an 'Us' created through the mutual effort of organising and participating in the tribunal that can open up different understandings of migrant justice and its connection to wider struggles.

Keywords: hostile environment policies, imperial pitfalls, international law, listening, London Permanent Peoples' Tribunal (PPT) hearing, migrant justice, migrant workers, the World Tribunal on Iraq (WTI)

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Introduction

International people's tribunals date back to the post-second world war era, starting in the 1960s, with the Russell Tribunals on Vietnam examining US war crimes and, in the 1970s, the crimes of military dictatorships in Latin America. Many related initiatives have followed, variously termed 'peoples' tribunals', 'civil society tribunals' and 'global civil society tribunals' which are of diverse lineages, reach and ambitions.[1] This article explores one such initiative: the Permanent Peoples' Tribunal (PPT) hearing, 'The hostile environment on trial', which took place in London in 2018.[2] When calling a gathering a people's tribunal, certain kinds of listening and attention become possible that are shaped by specific histories and contexts.

The London PPT 2018 hearing was one of a series preceded by hearings in Italy, Spain and France[3] and followed by events in Belgium and Germany, concluding in 2020. In contrast to civil society tribunals such as the Tribunal 12 which took place in Stockholm in 2012,[4] at the London Tribunal, individuals and migrant groups organised and testified. The Tribunal tried the 'hostile environment' policy implemented in the UK through the 2014 and 2016 Immigration Acts following then home secretary and later, prime minister, Theresa May's 2012 confirmation that the aim of the immigration legislation was 'to create a hostile environment for illegal immigration'.[5]

This Tribunal, which took place after the Brexit vote but before the UK left the European Union (EU), found the UK government, the EU and its member states guilty of violating the human rights of migrant and refugee peoples with impunity through its policies, resulting in the verdict that the hostile environment in the UK and across Europe facilitates and perpetuates racism and cruelty, a 'type of violence by design'.[6]

In this article, I consider the kind of listening that took place during the London PPT, held at Quaker House, across from Euston Station on a grey November weekend, and what changed as a result. I argue that the legal framing that comes with calling a gathering a 'tribunal' both compels and excludes, and the politics of listening for migrant justice within such a space is laden with imperial pitfalls and power relations that must be continuously worked through.[7] Instead of a legal remedy, what results is a *social* relation, an 'Us' created through the mutual effort[8] of organising and participating in the tribunal that can open different understandings of migrant justice and its connection to wider struggles.

My analysis draws on the following materials: my notes and observations of the testimony, rapporteur and prosecutor speeches, and of the process itself in which I acted as a juror; published submissions including the Tribunal indictments drafted by the organising committee prior to the event;[9] the jury deliberation that we wrote after the event which formally states the verdict and reasoning;[10] testimony published by the London PPT Steering Group;[11] publicly available manifestos; and informal follow-up discussions as part of the Steering Group that continued the work of the Tribunal.

First, I explore who and what were the London PPT. Second, I argue that putting the hostile environment on trial challenged understandings of the policy as 'new' and of the category 'migrant' in connection to demands for justice and other global struggles – extending responsibility beyond states and beyond the global North. Third, I consider the imperial pitfalls and inequalities of listening in this kind of tribunal. Fourth, I argue that the listening that took place was within the law, away from the state, to create social relations that laid the foundation for future resistance. I conclude that listening takes place and is effective *despite* the law. While the law drew different people together as a Tribunal, the promise of listening in this space went beyond what law can offer to open wider horizons for migrant justice.

What and who were the London PPT?

Co-convenors of the London Tribunal included the Institute of Race Relations, Global Justice Now, Waling-Waling (Supporting Migrant Workers' Rights Campaign), UNITE the union, Statewatch and War on Want, with the Transnational Migrant Platform as the intermediary across the sessions (in Spain, Italy, France, the UK and Germany) and the PPT Secretariat based in Italy.[12] The London session focused on the living and working conditions of migrants and refugees, with a specific attention to workers' rights. Over forty witnesses from trade unions, community groups, migrant organisations and other groups presented oral evidence over two days (written evidence had been submitted in advance). The act of holding the Tribunal aspires to unify a migrant rights field that is divided among multiple initiatives, sometimes working in silos focusing on specific types of migration, sometimes competing for traction and funding. The participation of migrant organisations and trade unions was inspired by a shared concern for migrant workers.

A tribunal does not automatically achieve 'a people' united by the common experiences of suffering and the violation of their rights with impunity, regardless of nationality and ethnicity. The participating groups and individuals testified from intersections including race, class, gender and legal status and not all groups affected by these policies were present. As in the World Tribunal on Iraq (WTI), held from 2003 to 2005, which reflected the 'many colours, the variety of the worldwide anti-war movement',[13] here also many views on borders, immigration and the right to mobility coexisted. Demands made during the Tribunal speak to quite different tactics and strategies.

These include calls for: no borders in the longer term, alongside demands to reform existing immigration law and policy (e.g. end the £35,000 requirement for permanent residence; granting migrant workers long-term visas and the right to permanent settlement without restriction on place of employment); ending the hostile environment policy accompanied by calls for its mitigation (e.g. the need for a firewall between workers' rights and immigration enforcement, and victims of violence and immigration status); shutting down immigration detention

centres and insisting on better work conditions within them (e.g. opposition to the payment of one euro per hour for work); greater regulation (e.g. of the cleaning sector, more resources to the Gangmasters and Labour Abuse Authority (GLAA) including extending it to the hospitality sector); the acknowledgement and recognition of colonialism and desistance from policies that impoverish the Global South; EU support for small farmers, as part of a longer-term vision for food sovereignty, environmental protection and respect of human rights of migrant workers; forcing companies to comply with EU fundamental rights.

Ayça Çubukçu shows the ways in which organisers of the WTI insisted on 'leaving room' and developing a method of working through difference.[14] While for the WTI the slogans of the *altermondialisation* (anti-globalisation) movement 'unity in diversity' were explicit on banners, in London, representation and legitimacy were forged through a different process. This required the huge, invisible labour of the organisers over several years: drafting the indictment, placing calls for witnesses, selecting jurors, fundraising, organising the venue as well as travel and accommodation, publicising the event through multiple networks and building support. Relations of trust were mobilised in a context in which

> [a]usterity and migration control combine to restrict the rights of migrants and citizens and pit groups against each other through state racism and racial capitalism. To resist, these are the bridges that can be built across false divides to challenge hostile environments and generate new visions of justice.[15]

This was, therefore, an uncertain and open-ended commitment, to try to be co-present in order to construct the world alongside others with whom one may or may not share political views, social locations and trust. The organisers carefully reviewed and curated the testimony to ensure a respectful treatment of sensitive issues. This careful preparation addressed the risk of mobilising pity rather than actions toward justice, and the danger of consuming the spectacle of migrant suffering rather than building solidarity.[16]

The jurors for the session had different backgrounds (lawyers, academics, former trade union representatives) and orientations to migration.[17] The role of jurors varies across PPT sessions, with an inevitable conflation of the role of judge/juror, a 'jury of conscience' hovering between advocates and prosecutors.[18] However, I argue that the jury was not the point. This was the staging, an element of performance that ostensibly directed testimony to 'us' the jurors. Instead, the true interlocutors were the fragile 'We' that came together, with many differences, throughout the two days.

Why put the hostile environment on trial?

Extensive academic research has documented how, through the hostile environment policy, legislation shifts from the external, territorial border to the internal border, incorporating technologies of everyday bordering in which ordinary

citizens are forced to become either border-guards and/or suspected illegitimate border crossers.[19] It has been applied to people of colour irrespective of formal legal status, and through colonial pathways to the Windrush generation.[20] The 'hostile environment' was later officially renamed 'compliant environment' by the UK government, 'a tacit acknowledgement of the state racism informing the policies'.[21]

Yet as Elsa Oomen shows through her study of long-term British-Caribbean residents' experiences of rights and restriction in the UK, the hostile environment is 'nothing new' for many who have experienced an informal hostile environment for decades. In 2012, it simply found a legal standing and 'got more hostile', to quote one of the study's participants. Oomen notes that some participants 'remarked that the operation of a hostile environment over the years, and its present-day manifestations have made them question the certainty in rights that draw from their citizenship status'.[22]

The creation of the category 'migrant' is connected to ongoing racism entrenched in colonial regimes. In her study of Indian migration and empire, Radhika Mongia argues that 'if the chief characteristic of colonial rule is a set of legal differentiations, which entail differential entitlements and different treatment for different subjects, then today *all* states embody a *historically produced* colonial dimension, with the citizen/migrant distinction as a, perhaps *the*, primary axis of such differentiation'.[23] This historical production is furthered by contemporary processes of 'migrantification' meaning that

> no one is born a migrant: people are constructed as 'migrants' through the manner in which they are positioned and treated by public institutions, the media and other members of society. These processes construct the identity of 'migrant' as the pre-eminent aspect of any individual, flattening out other aspects of their personality and experience.[24]

Therefore, the hostile environment both is and is not new, and migrants are constructed through law, discourse and social, economic and political relations. Testimony at the Tribunal took these points further, challenging understandings of the hostile environment as 'new' and of the category migrant in connection to demands for migrant justice and other global struggles:

> We are conscious of the specificities of a hearing based in London, a city that continues to profit from the extractive, exploitative relations that were, through Empire, violently imposed on people throughout the world. [Frances] Webber [Institute of Race Relations], [Tony] Bunyan [Statewatch], [Clara] Osagiede [Former RMT Member (National Union of Rail, Maritime and Transport Workers)], [Dr Gbenga] Oduntan [Centre for Critical International Law Kent University] named the ongoing legacy of colonialism, corporate looting and the arms trade that inflicts economic and social immiseration. We heard from [Dorothy] Guerrero [Global Justice Now] how global supply chains continue

> to squeeze wages and maximise profits. Oduntan gave specific examples of abusive trade and financial practices that direct huge profits away from social benefits such as healthcare systems and education and into tax havens. The City of London is known to be both a key facilitator and beneficiary of such corrupt processes. Migration to the UK must be understood within this context. As Osagiede stated: 'You're here to take a little back . . . You can't steal from me and at the same time call me a thief'.[25]

Oduntan summarised this claim at the Tribunal as follows, 'We therefore seek to compel the UK to desist from further damaging Nigeria's economic and other interests, and full damages and compensation from the UK on behalf of Nigeria and its citizens at home and in the diaspora.'[26] These claims point to forms of resistance across time as well as the spaces of specific hostile environments in European nation states. Osagiede and Oduntan demanded compensation and reparation for harms and to desist from British policies that impoverish African nations. Listening to this testimony requires the recognition that these are ongoing processes rather than a historical background, which must serve as the foundation for strategies of resistance to multiple hostile environments.[27]

This recognition generates change, in the form of a wider call for action:

> The British government is working against the interests of migrants and citizens alike. It is failing to educate the population about the racism, greed and violence of British imperialism, whose consequences continue to this day. We refute the hypocrisy of the claim that the British government respects basic rights as it demands that ordinary people enforce its racist immigration laws. We call for us all to find connections and common interests between struggles.[28]

The statement of the PPT General Secretariat takes this point further, to demonstrate also the 'migrantification' identified above:

> The contemporary migration and asylum regime demonstrates a deliberate historical amnesia, ignoring the destructive consequences of British colonialism and the ways in which this continues to underpin the massive inequalities of contemporary global political economy. These inequalities are a key factor in impelling human mobility. . . The transformation of persons exercising their fundamental right to migrate into 'others', aliens, potential or real enemies, invaders and aggressors, both in attitudes and in concrete behaviours such as labour contracts, reproduces categories of colonialism and slavery.[29]

These demands require acting for migrant justice within a global, connected framework. This means indicting the UK, the EU and its member states, but also the transnational corporations and geographically dispersed actors in global supply chains of racial capitalism.[30] Different responsibilities are placed on a wider range of actors through a process of listening that I now explore.

Listening: imperial pitfalls and inequalities

Listening in the tribunal space is explored here as a waystation to alternatives, which involves risk and uncertainty.[31] I understand listening as a social and political process interdependent with, rather than subordinate to, voice.[32] Listening is not inherently emancipatory and, indeed, is central to projects of oppression and exploitation whereby it is possible to more easily manage dissent by 'listening' and gathering data, with listening also as a 'managerial cure'.[33]

In contrast, I consider the London PPT as a case study of listening that can build solidarity and recast migrant justice outside of formal political institutions. Instead of theorising what listening *is* I consider what calling something listening *does*, that is, naming a gathering a tribunal in which testimony will be heard and interpreted towards a given end, a verdict. The PPT is a public space of witnessing in which roles of speakers and listeners are formally set by the legal tribunal frame: jury, witnesses, prosecutor, audience. This is itself a site of struggle. For Fuyuki Kurasawa, witnessing is

> a globalizing mode of ethico-political labour, an arduous working-through produced out of the struggles of groups and persons who engage in testimonial tasks in order to confront corresponding perils across various situations in global civil society. Put succinctly, it is the transnational work of bearing witness, the normative and political substance generated through the performance of patterns of social action, which matters.[34]

Within these struggles the capacity of actors 'to exercise power and mobilize resources differs widely – as does their gaining and retaining access to, support from, and influence over other communicative or institutional actors'.[35] In light of these inequalities, listening within spaces of witnessing, such as people's tribunals, cannot be assumed to effect a 'decolonial' interruption of regimes of intelligibility and perceptual logics that constitute some speakers as legitimate political actors and not others.[36] Some claims, and some ways of communicating and being, risk always being unintelligible to dominant groups when underlying power relations are unchallenged. Inaudibilities and silences – including around race, colonialism, sexuality and gender (understood expansively), class – also characterise oppositional spaces that face away from the state.[37]

For instance, in her study of the WTI, Çubukçu argues that across the diverse international network, 'the love of humanity' for which it acted and which constituted its legitimacy and then legality, was fraught with 'imperial pitfalls'. In its founding discussions the 'question of legitimacy was discussed passionately qua ideas of "the world" and "tribunal," but surprisingly, not "Iraq"'.[38] She argues that

> the reason the legitimacy problem centered on the constitution of 'the world' (whether politically or legally) was because 'humanity' was seen as the greater community that was violated by the war on Iraq. The kind of subjectivity

> mobilized in response was one that saw the war on Iraq as a threat on its own self, a self that in turn was a self of the world . . . as the Jury of Conscience at the WTI's Istanbul session would declare in 2005: 'the attack on Iraq [was] an attack on all of us'.[39]

For Çubukçu, 'The WTI was conducted from the perspective of humanity, for the love of humanity. This was its animating energy, its strength, its weakness'.[40]

These challenges are not just specific to the WTI but, as Allen notes in her review, the imperial foundations 'of doing good for others "in the name of humanity" generally' can be an issue for anyone.[41] Indeed, in the name of humanity, 'saving' refugees and migrants can mean doing good for others who are constructed as objects of compassion and pity but not as political subjects. Refugees and migrants are saved and welcomed as new arrivals to Europe, which is understood as a bastion of human rights, rather than a space where colonial history is disavowed and 'race is to have no social place, no explicit markings. It is to be excised from any characterising of human conditions, relations [or] formations'.[42]

The PPT is not cast as a 'saviour' but, instead, a space in which to work through – not transcend – these imperial pitfalls and inequalities. The London PPT uses the frame of 'Europe' to compel wide support by playing its failures off against a certain self-understanding of what it should be. The Tribunal becomes a moment in which to confront Europe with its own contradictions, an articulation that was even more explicit in the subsequent Berlin Tribunal of 2020 where the 'migrant crisis' was declared to be a crisis '*of* Europe' rather than '*in* Europe'.[43]

At the London PPT, the promise of listening is in the fragile 'We' that came together over the two days of testimony. This can be a step toward showing contradictions and dissonances that break with the existing order and shift responsibility to forge resistance.[44] To focus on listening in this way can seem utopian with the rise of illiberal democracy in which, it seems, no one is really listening to each other. Not listening – to experts, scientists, those harmed by austerity – has become a kind of politics. Not listening, but also only selectively listening to some, further harms democratic processes and political institutions. More generally, listening can be demanded in the name of civility as a form of recognition that should apply to everyone including 'understandable' racism and xenophobia in the context I focus on in this article – the moment of Brexit, austerity and the hostile/compliant environment policy – and in the wake of multiple crises since.

The process of building a fragile 'We' must be placed in this wider context as both utopian and pragmatic. The possibility of the PPT is to collectively identify and name what might be points of convergence, as well as divergence, through social – as well as legal – relations that emerge from placing experiences side-by-side. This is a promise of listening in the methodology and practice of the PPT, to which I now turn.

Listening away from the state, within and despite the law

I place the London 2018 Tribunal in a tactical frame where the act of holding a tribunal is a component of a broader strategy of migrant justice defined and pursued in distinct ways by the co-convenors, jurors, witnesses and audience.[45] While people's tribunals are located outside of the state-sanctioned formal justice system, they are consciously constituted as a legal procedure with an instrumental use of the law. This shaped the kind of listening and attention demanded in the space of the tribunal. In this section I argue that listening at the PPT took place *away from* state-sanctioned spaces such as courts or government commissions, *within the law* but as a form of listening *despite the law*, in ways that generate social as well as legal pathways to migrant justice and forms of resistance.

Listening away from the state

The power of the Tribunal lies in the promise to listen. The PPT Tribunal itself was understood to be an act of resistance, in which the people who gave testimony have of course been speaking all along and are not voiceless. Those who are not listening include powerful actors such as the Defendants to the indictment: the British government, in its own right and as the representative of the governments of the EU and of the Global North.

Listening away from the state builds particular social relations of attention – between less powerful actors that formal government bodies do not permit – which can create a path to different understandings of migrant justice and resistance. Yet, this happens within a legal format. At a practical level, the choice of a legal format is paradoxical when viewed solely as a written, legal outcome. 'Simply put, why choose the legal format when the tribunal has no formal legal status or authority, and is not legally binding?'.[46] These actions are understood to go beyond the legal to include: publicising information, supporting campaigns, providing a corrective, mobilising public opinion,[47] collecting primary and secondary material for formal inquiries, catalysing networks to recognise the suffering of victims and survivors and memorialising 'historical' wrongs.[48] Simply by bringing evidence into the public domain, public opinion can be shifted, and political pressure asserted. Kampmark argues that the PPT broadens the focus of justice, to affect public opinion and bypass states.[49] People's tribunals recognise, memorialise and build solidarity, offer critique, connectedness and hope.

The London PPT tribunal was constructed away from state actors following this logic. One of the main co-convenors was Waling-Waling (Supporting Migrant Workers' Rights Campaigns), a migrant domestic workers' organisation. They waged a successful campaign to change the immigration status of domestic workers in 1997/98.[50] However, in 2012 migrant workers were once again stripped of their rights. As Viviane Abayomi explained in her testimony on behalf of Waling-Waling at the PPT:

> This government gave a license to employers to treat their workers with impunity – yet another aspect of the hostile environment. Migrant domestic workers are once again tied to an employer with a six-month visa, after which they are expected to return home or to the country of their employer . . . Without the ability to access rights with protections as workers, migrant domestic workers are under the total control of their employers and can be treated with impunity, or as some workers say 'my employer sees me as a machine or an animal not a human being with a right to respect and dignity'.[51]

Despite documentation and reports being submitted to Theresa May's government and an in-depth report to the House of Commons in which the government agreed to comply with recommendations, at the time of writing nothing has been implemented. Engagement in state-sanctioned spaces did not result in the desired change. Waling-Waling were then core organisers of the PPT.

In structured policy forums – e.g., where one is invited to submit evidence to government consultations – the terms make it impossible to be heard when naming racism as inherent to the state and wider political entities and its enactment in everyday life.[52] The format of a legal tribunal provides a framework to do migrant justice differently, to listen to each other away from the state.

Within the law

Responsibilities are placed on actors in a space constituted as a tribunal framed by international human rights law. The wider PPT project lives within international law, to provide a corrective, with the underlying belief that its gaps can be filled. As described by its Secretariat in Italy, the 'central nucleus of the "PPT project" is to experiment and restore forms of democracy and justice through the practice of an active participation of peoples and an active listening for the translation of their claims and requests in juridical and political perspective for their present and future'.[53] According to the PPT Secretariat, the peoples are the protagonists of the claim through which real life is connected to human rights, and international law is the pathway to this liberation.[54]

In his critique of international law as such a pathway to liberation, Antony Anghie argues that 'there seems to be an *inherent reflex* in international law which conceals the colonial past on which its entire structure is based'.[55] Writing about her participation in and study of another PPT Tribunal on Free Trade, violence, impunity and peoples' rights in Mexico (2011–2014), Rosalba Icaza considers 'the violence of coloniality as an inseparable and constitutive underside of modern state legality'.[56]

These imperial pitfalls are acknowledged within different people's tribunals. While enthusiastic about the power of international law to redress wrongs, '[a]t the same time, proponents of peoples' tribunals recognise that international law embodies and perpetuates historical and current structures of power that underpin such violations and that international law also needs to be remade in the

interests of peoples and not just nation-states'.[57] The nature of international law and its foundations in violent conquest are questioned within the PPT, including in the 1992 session on the Conquest of Latin America and International law, marking the 500-year anniversary of 'conquest'.[58] The 'double original sin' of international law – its conception to justify the conquest of America and 'just war' – was denounced.[59] The PPT thus claims to call international law to account: its roots, alliances, ambiguity, collusion, to explore its identity and presumed legitimacy. The 1992 session on Conquest of the Americas 'documented in that historical context how international law was conceived: an instrument to justify a posteriori the logic of domination in the name of the conversion to the religion of the free market'.[60]

The PPT proposes a rethinking of international law with the idea of people as protagonists; authors of law thereby threatening state sovereignty.[61] It is a self-referential jurisprudential tradition that claims to articulate and develop in its hearings overarching theories of power structures and theoretical frameworks over time. The idea is to critique and transform international law, not to abolish or refuse it.[62]

While this article explores the London Tribunal rather than the wider PPT, the continuities with this general framework can be seen in its precursor, the 1994 PPT on the Right to Asylum in Europe. Prosecutor Frances Webber introduced the charges in political and legal terms that critique the betrayal of international human rights instruments and politics with which the wider PPT project is framed:

> I come before this Tribunal today to accuse the governments of Western Europe of betrayal. A betrayal not only of the asylum-seekers who seek refuge in their countries, on whose behalf I speak as Prosecutor, but also a betrayal of the humanitarian ideals which gave rise to the Geneva Convention and to the Universal Declaration of Human Rights. In this betrayal of the aspirations of humanity is a betrayal of the peoples of Europe and the world, and of democracy itself.[63]

The relationship between what Çubukçu terms 'legal and political imaginaries' within people's tribunals requires specific attention in each case. On the legal side, the use of human rights instruments means fitting experiences into a frame and definition which may exclude or damage the narratives recounted. The legal 'organising' of reality – as in the WTI where 'the tribunal would not only express, but also perceive "facts" through categories of international law – hence recognizing, and thus organizing, reality through the discourse of law'[64] – is a problem of translation and epistemic justice for Icaza in relation to the PPT in Mexico in which she participated:

> the contribution of the PPT to epistemic justice is not free from tensions. The tribunals classify social grievances in legal terms through the lens/gaze of international law. This legal qualification or characterisation works as an

> activity of 'translation', in some cases of incommensurable notions of justice or absence of justice, violence or well-being. This carries the risk of erasing and making invisible what does not fit or seems problematic to attach to a particular rule of international law. This is what has been termed 'translation as epistemic erasure'. In practical terms the erasure might be subtle and not premeditated, but it has certainly taken the form of selection of 'model cases' due to their relevance in terms of their legal analysis.[65]

There is the further risk of exclusion for those who do not know the language of the law and are outsiders to its mechanics and procedures.[66] The very concept of the PPT itself was described by some UK-based groups involved in the London 2018 tribunal as hard to understand, sounding 'high powered' or 'distant', though organisers noted that this changed with further engagement.

The documents of the London 2018 Tribunal held faith with international law, and with the purported political promise of Europe, and wove this into its formal proceedings.[67] I suggest that legal translation in the practice of the PPT, however, was partial and incomplete because of the social relations at work. As I now explore, tentative social relations formed despite the law that generate a path to joint action for migrant justice through the promise of listening.

Listening, despite the law

The extent to which a trial and legal strategies can ever challenge the underlying order is what Brenna Bhandar qualifies as an 'inescapable dilemma', asking:

> how does one utilise the law without re-inscribing the very colonial legal order that one is attempting to break down? . . . as critical race theorists and indigenous scholars have shown, to not avail ourselves of the law in an effort to ameliorate social ills, and to promote and protect the rights of oppressed minorities is to essentially abrogate one's political responsibilities. Moreover, the reality of political struggle (particularly of the anti-colonial variety) is that it is of a diffuse and varied nature, engaging multiple different tactics in order to achieve its ends.[68]

Through legal 'strategies of rupture' it can be possible to subvert the order and structure of a trial, re-define the very terms on which a trial is premised and make impossible the operation of the legal order.[69] The spectacle and publicity of law are used to directly undermine the law by launching a political attack on the existing order.[70] This is not an either/or decision of adhering to the existing order and colluding with it, or defying it from 'outside'. Instead, the use of law is tactical in terms of a wider strategy, a 'principled opportunism' where law is consciously used as a mere tool to be discarded when it is not useful.

While people's tribunals are located outside of the state-sanctioned formal justice system, they are consciously constituted as a legal procedure with a similar

instrumental use of the law. For instance, Krever reviews the reasons for which Jean-Paul Sartre insisted on the Vietnam Tribunal operating specifically within the terrain of international law. This was not to judge whether American policy in Vietnam was evil, nor an abstract attachment to legality, 'Rather, he felt the invocation of law important in arousing opposition to the war amongst the "petit bourgeois masses" who would otherwise be indifferent to U.S. imperialism: "it is by means of legalism," he insisted, "that their eyes can be opened".'[71]

The London PPT created a space for collectively exploring migrant justice and opening each other's eyes. By placing experiences and analyses, demands and protests side-by-side in this quasi-legal space, different possibilities emerge upon which to base future action that is political, not legal, through social interactions of the tribunal. While 'side-by-side' should not be conflated with 'on an equal footing', there is an opportunity to labour collectively and recognise different positionalities as well as common ground. This promise enables the shift from testifying about individual wrongs to collectively naming fears and experiences from different social locations e.g., the deterrence logic of the hostile environment which dissuades migrants from seeking vital health care to which they may be entitled and which generates moral dilemmas and fears for healthcare workers. The PPT thus becomes a space of strategising rather than enforcement of the verdict. For example, Umit Ozturk of the Euro Mediterranean Network demanded health justice as part of challenging the asylum processes when denouncing threats to physical and mental health, and emotional wellbeing. 'Prolonged asylum cases with anxious waiting process and hostile tones by the immigration authorities continue to be the major cause of problems for asylum seekers. . .as experienced by myself and many others throughout decades.'[72] Following on from the reframing of the hostile environment explored above, he states,

> The 'hostile environment' is not a new reality on the ground, rather a new label for a 'hostile turnstile' that has always controlled the gates to monitor who was entering. And it is not a policy only exercised by the government, but a mentality defended by other key players such as politicians, corporate interests, mainstream media especially the tabloid media, and racist and fascist campaigning groups. Persecution continues, but in different forms.[73]

This testimony is given alongside that of healthcare actors, such as Dr Neal Russell, a children's doctor working in London in the National Health Service (NHS), who identified the strategies through which groups like Maternity Action, Docs Not Cops and Medact have encouraged healthcare leaders to recognise barriers within the health service, caused by xenophobia, but also a lack of awareness about the regulations and their effect on people's lives. 'Staff usually don't consider whether patients' failure to engage with care may be due to hostile environment policies, and are more likely to assume other explanations' and are likely to stay silent for fear of breaching patient confidentiality, effect on their career and criticism from the public fuelled by media misperceptions.[74] The opportunity

is for understandings to be enlarged, for strategies to then shift by listening to when and how these testimonies meet and how they might be furthered e.g., through understanding this hostility as a longstanding barrier to health care that is made worse, but not created by, the hostile environment as a named policy; and for adding and amplifying the voices of healthcare workers and migrants who challenge racism, asylum processes and the corporate interests that prey on the NHS.

Brid Brennan of the Transnational Migrant Platform described the Tribunal as 'a space to come, without shame or fear, to express hope, the affirmation of humanity through collectives of solidarity'.[75] I argue that this is a promise that can be tentatively offered despite, rather than because of, the law. The law acted as a frame for a network of social relations, and the possibility of an ethic of responsibility, connection and communicative engagement. While the law drew different people together as a tribunal, the promise of listening in this space, then acting upon what was learnt, went beyond what 'law' can offer.

Here the law can be a tool that can be put aside when not useful, rather than a master frame. This is different to Diane Otto's account of other PPTs in which, she argues: 'Engagement with law is aspirational, rather than doctrinal. While victim testimonies are given centre stage, the goal is to step outside the law to ask structural questions about the exclusionary effects of the law and whose interests this serves.'[76] Rather than returning to 'the law', I suggest that it is the different authoring of migrant *justice* that is at stake – experiences were shared from which campaigns and strategies could be built that may not subsequently draw on the law at all.

Legal language – e.g., the Deliberation draws on sub-articles of the Rome Statute on 'crimes against humanity'[77] – and powerful tools that frame the undertaking, can also obscure what happened and what changes: not the law but a different potential authoring of migrant justice in which the law is but one tool. The verdict of the jury was that the hostile environment facilitates and perpetuates racism and intentional cruelty, a 'type of violence by design' whereby,

> government policy and law is playing an active role in creating and providing the structures for ongoing violence in which employers, service providers and other actors carry out the weight of this violence. The government's creation of destitution, creation of illegal status, creation of conditions for systemic abuse by employers goes beyond mere complicity and demands we attend to government responsibility for deeply destructive effects of law and policy on migrants' lives and experiences.[78]

But the destructive effects of law and policy were denounced using metaphors that did not fit the legal grammar – e.g., policy as a perpetrator of abuse, or the state as a thief – suggesting 'violence by design' needs a legal or moral language that describes the 'legally unclassifiable or illegible moves that are made, and the testimonies are an important step in approaching this language. The acts of

verbalizing, of calling out, that we heard at the PPT are political acts, and provide an important map in strategizing for the future.'[79]

Law no doubt varied in importance for PPT organisers, and legal struggles may have been deemed to be intrinsically valuable or accepted as a necessity by those who participated. The web of social relations that are formed transcend the legal, however, because of what listening within these social relations might make intelligible. Listening in a people's tribunal requires attending not only to the 'letter' of the indictment but also its spirit and practice, its process, authors and many partners, and what changes as a result. As Çubukçu writes of the WTI, 'If the *texts* of the WTI's founding act are deconstructable to the bone, just like any righteous (un)foundedness, the bodies that day after day, month after month, year after year constituted the WTI in action can still remain untouched by such deconstruction, not the least because *action* is not only a lingual, but also a touching affair.'[80]

The testimonies revealed the wider workings of racial capitalism in which these policies and laws are embedded, and which shape relations of production and the violations of the rights of migrants. This includes making visible how the exploitation of migrant workers continues in Immigrant Removal Centres. As Fidelis Chebe and Jon Burnett of Migrant Action testified, detainee labour serves two purposes: first, reducing running costs within these institutions, run by private companies that use detainees to contribute to cleaning, cooking, painting etc., while exempted from paying minimum wage set at £7.83 for those 25 and over (at the time of writing the Home Office had vetoed an increase to £1.15 per hour); second, detainee labour 'serves a function of internal social control, to achieve compliance and acquiescence to IRC regimes which can be violent, abusive and harmful, and to broader Home Office rationales'. 'Immigration raids are justified partly on the grounds that "people are being exploited" – but conditions of work in detention are even worse. It's the final exploitation, a small part of the continuum experiences by migrant workers. Detainee labour is also racialised: borders and kitchen staff tend to be white, cleaners and gardeners are non-white, reproducing the racialised exploitation outside.'[81]

At the same time, in the same session, supporters, such as Bill MacKeith, Campaign to Close Campsfield & Oxford Trades Council, End All Immigration Detention and Barbed Wire Britain Network, identified resistance and solidarity: 'resistance to detention is greater now than any time in the past . . . People in detention continue to protest and they are doing so increasingly in tandem with supporters outside.'[82] An anonymous former immigration detainee at Yarl's Wood Immigration Removal Centre recognised the value of this solidarity, while also underscoring the dangers for detainees:

> To fight for our freedom detainees take a drastic measure to go on hunger strike, resistance against the authorities, and many of us manage to get outside support from many pressure groups who are willing to fight outside the detention for people like us. Those who participated in such strike are normally

> given urgent deportation orders as a punishment. I fought my way through without giving up and although I left detention, the fears and mental torture I suffered while I was there is not something I will ever be able to forget and is still fresh in my thoughts.[83]

A path can be forged here, not to experience this as the anonymous testifier did, but to see how they construct the world for the 'Us' of the Tribunal, for whom this narrative will have landed in radically different ways due to different social locations. What results is a *social* relation, an 'Us' created through mutual effort of organising and participating in the Tribunal. The protagonists of the Tribunal – migrant-led campaigns and organisations, racial justice groups, trade unions, advocates – established a promise of listening as a social relation. The PPT not only accuses a broad range of actors e.g., 'Europe' and 'ourselves',[84] it also brings together a different 'We', challenging the citizen/migrant dichotomy.[85] It becomes possible to name multiple addressees, not only the formally indicted parties – the EU, member states and the UK government – who generally do not respond to indictments or come to Permanent Peoples' tribunals. Rather, it offers the opportunity to bring together trade unions, self-organised migrant groups, migrant advocates, consumers (e.g. to ask about conditions under which fruit and vegetables are produced), parents, healthcare leaders, educators, regulatory bodies, immigration authorities, the public, the media. These groups can both be challenged by tribunal organisers and by those who testified and themselves can challenge the state and non-state actors who perpetuate systemic violence.

I liken this to the 'dialogical processes' Icaza refers to when reflecting on her participation in the PPT in Mexico, which provided a 'fragile but nonetheless highly relevant opening for a *coexistence of notions of justice*':

> From the PPT protagonists themselves – indigenous peoples' communities and their supporters – who are embarked on the struggle for legal pluralism and autonomy, I have learnt that the tribunals are worthwhile despite their (modern/colonial) legalist vocabulary and Eurocentric rationality. For those who emphasise the PPTs as processes that create opportunities for mutual learning among the participants, these have 'opened a real communicative process that allowed us to be transformed by such experience'. Meanwhile for others the PPT proceedings are instruments of visibility but little else. This is an important but certainly a modest role.[86]

For Icaza, written words uncover the route travelled in this dialogical process: 'The chosen route could be worthwhile only if it contributes to thinking justice *otherwise* in a *relationship* with those at the forefront of the struggles'.[87] In her case this relationship is with the PPT protagonists in Mexico today. In the (very different) context of the London PPT, the key relationships are between protagonists of migrant justice in their roles testifying, witnessing and deliberating, through which it becomes possible to confront the multiple forms of violence and

inequality in variously-defined, overlapping communities: people who are considered to be migrants, workers, trade unionists and more.

This is listening *despite* rather than because of the law. It is the difference between the rights-based 'letter' of the tribunal, and the lived texture of the promise and practice of listening as a 'touching affair' in which migrant justice can be tentatively explored and co-authored.

Conclusion

This article has explored listening away from the state, within the law and despite the law in the context of the London 2018 Permanent Peoples' Tribunal that put the 'hostile environment' on trial. The promises and pitfalls of such a space were interrogated, specifically the role of listening as a waystation to new forms of solidarity. This exploration provides methodological insight in connecting struggles by broadening the terrain of what counts as political, away from the focus on vocality, to include acts and responsibilities of listening.

This can involve careful consideration of wider processes of racial capitalism that are not only specific to migrants and migration, and to future joint action both for those who have already acted in solidarity – for instance, with detainees – and for those who came because they care about migrant justice but had not engaged with these different positionalities and experiences of resistance. The wider horizon extends to abolition, not only of borders but of all carceral systems, requiring new repertoires of action, including speaking and listening, beyond the law.

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