

'Condemning lawyers for doing their jobs is inherently dangerous'

Owen Bowcott *Legal affairs correspondent* *The Guardian* 14 Oct 2020

Becoming president of the Law Society a week after the prime minister launched a populist attack on "lefty" lawyers presents David Greene with a challenging dilemma. In Covid-disrupted times, the upbeat solicitor must keep in close step with the Ministry of Justice amid efforts to revive the partially suspended justice system and tackle its vast backlog of unheard cases. Simultaneously he is determined to defend the rule of law as the government, after years of underfunding the courts, appears to be running a campaign to scapegoat parts of the legal profession.

In his speech to the virtual Conservative party conference last week Boris Johnson pledged to prevent "the whole criminal justice system from being hamstrung by what the home secretary Priti Patel would call the lefty human rights lawyers, and other do-gooders."

Greene acknowledges solicitors have not always been popular. The latest denunciations, however, Greene fears, represent real "dangers". They follow the release of a video by the Home Office on Twitter, in August, criticising "activist lawyers" for allegedly frustrating the department's efforts to deport people with no right to remain in the UK.

When condemnation of lawyers is "put in the rhetorical framework of a conference speech, the dangers that go with it are not realised", warns Greene. "These are lawyers doing their job, whether it's in immigration or criminal defence work. They are upholding the law as it stands. Yet they are being criticised. That has inherent dangers particularly when picked up by the press who start naming lawyers. There's a tendency to identify lawyers with their clients' cases or problems. That is wholly incorrect and inappropriate because the lawyer is there to represent someone else."

In countries like Colombia, Greene cautions, that approach ultimately leads to death threats, violence and lawyers needing bodyguards. "We are in a febrile climate. We have huge uncertainties brought about by Covid-19. There's the added uncertainty over Brexit. We have to go back to basics: rule of law, access to justice and independence of the judiciary.

Greene, who has been at the same London law firm, Edwin Coe, since leaving school, is experienced at the interface between law and politics. He represented clients during both the 2016 article 50 Brexit and 2019 prorogation court challenges. He has also stood twice, unsuccessfully, as a Labour parliamentary candidate.

Covid's dislocation of the justice system – resulting in some criminal trials being delayed as far ahead as 2022 – has hit hardest the most precarious sections of the profession: those who rely on relatively poorly paid public funding and legal aid. Expenditure on legal aid fell by 37% between 2010 and 2018. The shortage of defence solicitors is well documented. "The quantity of defence lawyers is reducing and their age increasing," Greene warns. "We have been saying for a long time that this system is in crisis because money is not being put into criminal justice. Legal aid lawyers often struggle."

One key issue during his tenure will be how to improve diversity in the profession. "It's so important for people of different ethnicities and different social backgrounds to be able to talk to and be represented by lawyers with whom they are familiar because they look like them, talk like them and understand their problems," says Greene. He is concerned that too few black lawyers become judges or partners in law firms. Just 1.1% of QCs and 1% of court judges in England and Wales are black, according to 2019 data. The Law Society is already studying the experience of black lawyers and how they can progress to leadership positions. He is also keen not to forget others who feel excluded, such as white, working-class boys and disabled people. "We must have a profession that is open, flexible and works to enhance inclusion," he insists.