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Shamima Begum Ruling a Dark Stain on the UK Justice System

Yasmine Ahmed, Human Rights Watch: Although she was only 15 years old when she left the UK for Syria to join the Islamic State (ISIS), and despite finding there was "credible suspicion" that she was groomed and trafficked to Syria for sexual exploitation, yesterday the UK justice system upheld the government's decision to strip Shamima Begum of her citizenship. When the Special Immigration Appeals Commission rejected Begum's appeal, it was only the latest time British authorities failed to protect Begum. This includes the fact that authorities let her leave the UK.

The Commission ruled that the UK Home Secretary's power to strip Begum of her citizenship was not limited by her likely being a child victim of trafficking, or that it leaves her de facto stateless. The Commission also acknowledged that "reasonable people will profoundly disagree with the Secretary of State," but dismissed their objections as "wider society and political questions." Its decision comes roughly a year after the UK Supreme Court denied Begum the right to return to the UK to contest her citizenship revocation, despite being unable to have a fair hearing while detained in northeast Syria.

This leaves Begum in one of two detention camps holding thousands of women and their children as ISIS suspects without charge or trial. The dire conditions often amount to inhumane treatment and have reached the level of torture. The detainees include an estimated 50 other British women and children. Hundreds have died in these camps, in many cases for lack of medical care, which may have led to the death of Begum's newborn son in 2019.

Prisons in northeast Syria also hold a number of British men and boys, detained without charge or trial. Yet the UK has only repatriated 11 British nationals – 10 children and 1 woman – despite repeated requests from Kurdish-led authorities controlling these detention camps. In contrast, several countries in Europe, Central Asia, and elsewhere have repatriated many or most of their nationals who are women and children. The UK home secretary should reverse the decision and conduct an independent investigation into how UK authorities repeatedly failed to protect Begum. The UK government should also repatriate all British nationals, many of whom are women and children, from detention camps in Syria. Failing to do so leaves a dark stain on the United Kingdom.

Parole – the Plot Thickens

Peter Dawson, Prison Reforem Trust: In our recent blog of 10 February we said we would ask why officials started rejecting almost all Parole Board recommendations for open conditions before new rules came into force on 6 June. We've received a very interesting response.

"To be clear, you are working to the current policy, but with a more precautionary approach." Note sent internally to staff responsible for considering open recommendations made by the Parole Board. On the central issue of what guidance officials were working to before the new rules came into force, it's clear nothing was issued to caseworkers beyond the procedural note disclosed in this latest response. Instead, the ministry tells us in its covering note that "the change in approach was brought about through the intentions outlined by Government in the publication of the Root and Branch review" (published on 30 March 2022). The relevant section of that document reads as follows: 110. As this review has set out, it is the perpetrators of the most serious offences which require greater scrutiny in the parole process. This applies

not only to release decisions, but also on recommendation to transfer a prisoner to an open prison. Through reviewing the current process, it is the government's view that any recommendations for moves to open conditions for indeterminate sentenced prisoners (explained in Annex B) in the following categories, should be subject to greater ministerial scrutiny. These categories are: cases where the offender has committed murder; other homicide; rape; serious sexual offences or cruelty against a child. 111. There will be direct ministerial oversight of decisions on whether to move offenders in the above categories to open conditions. This greater scrutiny will create a stronger parole system, further ensuring the public are protected.

Needless to say, nothing was issued to prisoners, the Parole Board or prison staff to explain what "greater scrutiny" or "direct ministerial oversight" would actually mean or when it might come into operation, but the response to our FOI request now shows that from 4 May last year, something curiously entitled a "slightly interim process" was brought into operation. "The response doesn't tell us who this all-powerful individual is, nor their job title or position in the ministry (or elsewhere in government). It certainly doesn't tell us what qualifications or expertise they might have to overturn 19 out of 20 recommendations made by the Parole Board. And it doesn't tell us what instructions or guidance they have been working to in doing so."

We already know from the previous FOI response that no minister has been personally involved in any of these decisions so far. What the latest response shows is that "greater scrutiny" and "direct ministerial oversight" appear to have been delivered by requiring all decisions in the "upper cohort" (that is, for offences of murder, other homicide, rape, serious sexual offences and cruelty against a child) to be taken by a specific individual. This also appears to apply to any cases in the "lower cohort" (everyone else) where junior officials think it necessary to do so. There's no guidance on when this would be, but it seems safe to assume that it might be if they were tempted to agree to a Parole Board recommendation.

The response doesn't tell us who this all-powerful individual is, nor their job title or position in the ministry (or elsewhere in government). It certainly doesn't tell us what qualifications or expertise they might have to overturn 19 out of 20 recommendations made by the Parole Board. And it doesn't tell us what instructions or guidance they have been working to in doing so. "Should we take this to mean that Dominic Raab is taking instruction from someone else…rather than giving that steer himself? That seems so unlikely that we assume this is a drafting mistake, but the recipients of the email or note within the ministry must have been a little confused too."

The ministry tells us that there is an absolute exemption under the Freedom of Information Act from disclosing personal information, but the redaction of names from this document leaves a mystery about the chain of command as well as the identity of the person concerned. It is very strange that the document says that "the Secretary of State is clear xxx wants to take a more precautionary approach". Should we take this to mean that Dominic Raab is taking instruction from someone else about the approach to be taken rather than giving that steer himself? That seems so unlikely that we assume this is a drafting mistake, but the recipients of the email or note within the ministry must have been a little confused too. As for the policy to be applied, the document says to caseworkers making recommendations to the mystery decision maker that "To be clear, you are working to the current policy" (the ministry's underlining), but immediately qualifies that by saying "but with a more precautionary approach".

So it really matters that we try to clear up the confusion this latest FOI response leaves unresolved. First, we need to know more about who the unidentified decision maker is. Are they appointed by the secretary of state, or, bizarrely, superior to him in some way? We need to

know if a “precautionary approach” amounts to anything more complicated than an instruction to “just say no”. Does the repeated assertion (in this and in a previous response) that officials should consider recommendations for open under the same policy as the Parole Board (i.e. the policy applying before new Rules came into force on 6 June) actually mean anything? On the face of it, the application of a “precautionary principle” appears in reality to represent a radically new policy, quite different from what the Parole Board was applying in those cases.

So we will start by asking for the job title and qualifications of the mystery decision maker, and what instruction or guidance they received from (or, improbably, gave to) the secretary of state. The outcome of all this doublespeak has been anything but confusing: a 95% rejection rate of Parole Board recommendations. It doesn’t take much to predict what the impact of a similar “precautionary approach” procedure might be if the secretary of state is allowed by parliament to insert himself into decisions on release as well as transfers to open conditions.

A Call to Fix Our Broken Justice System

Jon Robins, Justice Gap: A meeting in the House of Commons highlighted the ‘scandal’ of the lack of support available to the victims of miscarriages of justice, as a result of a change in the law nine years ago shutting off compensation for the wrongly convicted. Henry Blaxland KC, who has acted in many high-profile miscarriage cases including Derek Bentley, James Hanratty, the Bridgewater Four and the M25 Three, told parliamentarians: ‘My aim here is to persuade people that something needs to be done about a scandal: the failure to give proper compensation to victims of miscarriages of justice.’ The barrister called for the reinstatement of a discretionary compensation scheme scrapped by New Labour in 2006. As reported by the Justice Gap, the victims of miscarriages of justice are now expected to be able to prove their innocence ‘beyond reasonable doubt’ as a result of the 2014 law change that stopped compensation pay-outs in almost all cases.

The call was made at a special meeting of the All-Party Parliamentary Group on Miscarriages of Justice, co-chaired by Barry Sheerman MP and Sir Bob Neill MP, to launch the next phase of work under the Future of Justice Project. ‘When someone wrongly convicted has their conviction overturned – and, frankly, we know that’s a rare enough occurrence from our previous work – we as a society need to support them and help them get back on their feet,’ commented Barry Sheerman MP. ‘But what do we actually do? We abandon them. The change in compensation arrangements – rightly described as at the time as an “affront to justice” by Baroness Helena Kennedy – were inhumane and the law needs to be changed. We are going to do our best to fix our broken justice system and we are going to start with highlighting this scandal.’

1) From now on the APPG’s work will be organised by the Future Justice Project. It is setting up five specialist committees which will run inquiries into a range of topics including concerns about the forensic science sector, joint enterprise and the lack of media engagement in miscarriages of justice. It will also be responding to the Law Commission’s review into criminal appeals (undertaken as a response to the APPG’s report into the Criminal Cases Review Commission). 2) The Future Justice Project is being run by the criminal appeals specialist Glyn Maddocks KC and editor of the Justice Gap Jon Robins. 3) Its work will be arranged under five specialist committees: Science & the Courts; Media; Legal Policy; Legal Profession; and Criminal Appeals. 4) The Science and the Courts committee is co-chaired by the Professor Angela Gallop and Baroness Sue Black. It recently announced the Westminster Commission on Forensic Science.

Prostitution: Amend Laws to Allow Sex Workers to Operate in Safety

Baroness Bennett: To ask His Majesty’s Government what steps they are taking in response to the report of the House of Commons Home Affairs Select Committee on Prostitution (Third Report, Session 2016–17, HC 26); and in particular, the recommendations on (1) decriminalising soliciting; and (2) amending brothel-keeping laws to allow independent sex workers to operate together indoors for safety. To quote a sex worker from Leeds: “We’re in the middle of a cost of living crisis, and although sex work is legal there aren’t any regulations and safe places for people to work legally, and the wages haven’t gone up at all. Survivalist sex work is a massive issue”. The talk in December was of action. Are the Government going to urgently look at this question, particularly in light of the cost of living crisis?

Lord Sharpe: Under-Secretary of State, Home Office: My Lords, following the committee’s report, the Government commissioned research on the prevalence and nature of sex work. This did not lend itself to clear recommendations on a new approach. We continue to engage with the police and others, with a focus on reducing the harm that can be associated with prostitution. We know there are links between brothels and organised criminal gangs and have no plans to amend legislation in this area.

As National Security Claims Go Up Judicial Oversight Goes Down

Nicholas Reed Langen, Justice Gap: The task of Home Secretary is, at its root, a simple one. It is to keep the citizens and residents within the UK’s borders safe. When it came to protecting Shamima Begum, the now infamous ISIS child-bride, Sajid Javid failed. Under his leadership as Home Secretary, the Metropolitan Police were found wanting, letting Begum continue on a path to radicalisation and doing little to stop her fleeing the country to Syria. Despite knowing that her best friend had abandoned the UK for Syria, and that she was likely to also have burgeoning links to the Islamic Caliphate, officers deemed Begum “low risk”. This was catastrophic mismanagement by the Metropolitan Police. They failed to notify Begum’s parents of the risk directly, instead handing Begum a letter at school to take home, and failed to put departure checks on Begum’s passport or on those of her close family. She was able to leave the country on her sister’s passport, along with two of her friends, without detection, all three set to walk down the aisle and to become “jihadi brides”.

Rather than acknowledge that the police, ultimately under his command, shared culpability for Begum’s radicalisation and subsequent flight to Syria, Javid pointed the finger of blame at the teenage girl. She was not a child who had been radicalised by extremists, but a fanatic who could not be safely contained at home. The only solution to the threat she posed was to urgently strip her of British citizenship for “reasons of national security” under section 40 of the British Nationality Act 1981. Better that she be stranded in the desert camps of the Middle East or at the mercy of the Bangladesh government – a state she ostensibly belongs to.

It was only by virtue of this apparent Bangladesh citizenship that the government was able to remove her British citizenship – although no court has asked what his solution would have been to the threat Begum posed if she did not have an alternative. Instead, what the courts have tended to do is to accept that because Begum’s case relates to national security, they must sit on their hands and do nothing. Begum’s case has been heard before the Special Immigration Appeals Commission’s Upper Tribunal, the Court of Appeal, and the Supreme Court. In every instance except before the Court of Appeal, Begum’s case has received short shrift. In front of the Supreme Court, the justices accepted that while Begum could not fairly challenge Javid’s decision if she remained abroad, they ruled this was not a “trump card” giving her a right to return. Instead, they concluded that the Home Secretary’s judgment on what national security requires must be “accorded appropriate respect.”

Given this precedent, it is unsurprising, although still disappointing, to see SIAC rule once more in favour of the government in its judgment handed down yesterday. Despite the Supreme Court acknowledging the difficulties Begum would face in effectively bringing her appeal from Syria, she chose to instruct counsel to continue her appeal. This was constructed on several lines, but primarily focused on the fact that in stripping her of citizenship, the Home Secretary failed to take account of the fact that she may have been a victim of child-trafficking, and may also have violated her related rights under Article 4 of the European Convention on Human Rights. Both of these factors should have at least slowed his decision making, and perhaps even required him to repatriate Begum as a child victim, rather than seeking to exile her. The Commission did not dispute that there was significant evidence suggesting that Begum was the victim of trafficking, and nor did they dispute that this was evidence Javid seemingly failed to take into account at the time. But even though the Court all but accepted Begum's claims, it concluded that there was nothing it could do about it. Even though Javid may well have been pushed into making a decision quickly by political circumstances, this was a decision that still hinged on national security. As Javid said, if we had seen the things "he had seen", all of us would have come to the same conclusion. Curiously, the court did see the things that Javid saw, albeit in closed hearings not open to the public or to journalists, but they seemed less certain. Despite there being scope for "reasonable people to disagree" about what Begum required, this was not enough for the Commission to order the Home Secretary to reconsider.

Instead, much like the Supreme Court, the Commission concluded that by linking his decision to national security, the Home Secretary erected a judicially inviolable barrier around his choice to strip Begum of her citizenship. The Commission had the potential to examine the plethora of reasons that Javid claims necessitated Begum's ostracisation, but it made little effort to do so. In detailing some of the open evidence given to the Commission, it was clear that there was the potential for Begum to still be a threat, in part because she knew what she was doing when she left the country under her own steam. As Witness E, an "impressive witness" with "authority on issues germane to the national security case" said, it was "inconceivable" that a girl like Begum, predicted mostly A*s at GCSE, would not have known what "ISIL were doing…at the time", and that she had "agency" in choosing to leave.

But making a single bad, or even terrible, choice alone should not justify such a devastating consequence as the loss of citizenship. If Begum was an adult, who had freely associated with Islamic terrorists and ISIL, and gone on to commit unspeakable atrocities, all of her own volition, exile would perhaps be a valid, if still extreme, choice. To this end, few of our allies have pursued this path of punishment, with most western states repatriating and prosecuting citizens who were virulent supporters of ISIL. Begum was not an adult, but a child. Not only this, but she was a child who had been failed by the Home Office, and who continues to be failed. As Dr X Green, an expert psychiatric witness (albeit without having had the opportunity to examine her), said, there is the 'absence of any process to see Begum as a vulnerable adolescent who was entitled to safeguarding considerations.'

Given that there is a "credible suspicion" that Begum was trafficked to Syria, and from there to the Caliphate, the failure of the state and the Home Secretary to adequately safeguard her has had devastating consequences. But in then stripping her of citizenship after she has borne the brunt of her decision-making, including the deaths of her three children, the Home Secretary is seeking to use his national security powers to ossify these consequences. Rather than accept this, and rule that the Home Secretary cannot lawfully use national security powers to deprive victims, or even potential victims, of trafficking of citizenship, the Commission refused to find that "trafficking is relevant to the exercise of the s.40 power." Even more concerningly, they ruled that even if trafficking was relevant, that the Home Secretary could have decided to give a "material factor no weight" in making a decision on citizenship. In essence, the moment a national security claim goes up, judicial oversight goes down. No judges can peer over the barrier, or push against the masonry, but must just accept the impediment.

Almost all of the arguments before the Commission were novel. No potential victim of trafficking has ever made a claim before SIAC on the basis that the Home Secretary has an obligation to consider this status. Similarly, few, if any, have argued that the state can exile someone to another country that they have no tangible connection to, and have only a spurious right of citizenship with. Forcing the Home Secretary to engage with these factors was a path abundantly open to the Commission. Instead, they found that trafficking was "not a mandatory relevant consideration."

Begum is not a sympathetic character. Her first interviews showed an addled, but determined acolyte of ISIL, obsessed with their deluded and deadly ideology. This acolyte may have gone, her faith stripped away, and may have been replaced with a Gen-Z persona, complete with a podcast and baseball cap, but many are legitimately sceptical of her redemption. But being an unsympathetic character is not justification for banishment. When this is coupled with the factors that led to her boarding that flight to Syria, Javid's decision looks like one made by a Home Secretary desperate for acclaim from the red-tops, not one made dispassionately from on high. The Commission came close to realising this. When Begum inevitably appeals to the Court of Appeal, we must hope that the justices there do better.

Concerns over Trial Arraignment Leads to Case Being Referred by the CCRC

CCRC has referred a conviction to the Court of Appeal due to concerns around the timing of a retrial. A defendant who is being retried must be arraigned (asked to enter their pleas) within two months of their original conviction being quashed by the Court of Appeal, unless an application is granted to extend the time period. Stuart Layden successfully appealed against a murder conviction on 19 March 2015. He was rearraigned for a new trial on 28 September 2015, and was again found guilty on 17 May 2016. This was considerably outside the maximum two month time limit between a conviction being overturned and the defendant being arraigned for a new trial. Mr Layden's application to the CCRC was received on 5 May 2022 and a review of his case has found there is a real possibility the Court of Appeal will find that the arraignment was unlawful, the trial proceedings were invalid and Mr Layden's conviction is unsafe.

Theatrical Bus Claimants Ordered to Pay Insurer £75,000

Law Society Gazette: A gang of claimants caught on CCTV throwing themselves around on a bus following a minor collision have been ordered to pay almost £75,000 to an insurer. Insurance company Aviva, represented by defendant firm Keoghs, had faced a total of 40 claims which would have cost up to £300,000 for soft tissue injuries following the collision with a car. But the claims collapsed after checks on the some of the purported victims' backgrounds and CCTV showing other passengers remaining still following the crash.

At a hearing at Preston County Court last month, District Judge Burrow ordered that 10 of the claimants each pay Aviva £5,000 in exemplary damages. They must also collectively pay £24,600 on the basis of joint and several liability. The 10 individuals will also pay Aviva's costs of making the Part 20 claim, subject to detailed assessment. At the damages assessment hearing, the judge said: 'Suffice to say that it seems to me that this was a fraud by which it was intended by the defendants and other individuals to make a significant profit from stag-

ing a road traffic accident. 'Cases of fraud such as this are the very cases in which such exemplary damages will be called for; otherwise the amount of damages awarded would not come near to a reasonable estimate of the potential profits of the fraud.'

The staged incident happened when a Skoda overtook a bus before pulling out at a junction and causing a minor collision. All the claims were brought by individuals aged under 45, while on-board cameras appeared to show several elderly passengers apparently untroubled by the impact. Investigations by Aviva and Keoghs showed several links between various claimants and the Skoda driver, with Facebook searches showing up a history of an accident involving the same driver and vehicle, as well as links back to the bus claimants. Defendant lawyers applied to bring a Part 20 claim in the torts of deceit and unlawful conspiracy against six litigated claimants, the driver of the Skoda and three other linked individuals; with a significant number of further claims waiting in the wings. By this time, solicitors for the six litigated claimants had come off the record leaving them as litigants in person. The claims were struck out and proceedings moved on to legal action against the 10 individuals. Following the exemplary damages award, Keoghs associate Katie Lomax said: 'This was a case where a number of individuals conspired together in order to gain financially. Had the fraud gone undetected a substantial amount of damages would have been paid out by Aviva and this behaviour is not victimless.'

Home Office Paying Asylum Seekers £1 an Hour to Clean Detention Centres

Jack Barton, Open Democracy: The Home Office has paid asylum seekers £1 an hour to carry out more than a million hours of work in the past five years, openDemocracy can reveal. The government has been accused of exploitation after documents seen by this website showed detainees in immigration centres run by Home Office contractors are working hundreds of thousands of hours a year for meagre wages. Detainees' roles vary, but include cleaners, welfare buddies, kitchen assistants, barbers, laundry orderlies, painters, gym orderlies and shop assistants.

One person who works in an immigration detention centre told openDemocracy that the centre he is being held in is reliant on this low-paid work. The Home Office and the private firms running the centres claim work is offered to relieve detainees' boredom and is popular. But experts say that such poor wages, which have not been raised in 15 years, can "never be ethical". Records obtained under Freedom of Information laws reveal that detainees carried out more than 385,000 hours of paid work in 2018 and 325,460 in 2019. The hours worked fell during the pandemic – to 163,600 in 2020 and 126,700 in 2021 – when detainee numbers were reduced due to safety concerns, before rising to 215,000 last year. The wages are funded by the Home Office, although they are paid to the detainees by the private contractors running the detention centres, which are responsible for overseeing the work.

Digital Case Management System Leads to Substantial Failures

Sydney Bevan, Justice Gap: The three-year £1 billion reform program for courts and tribunals in England and Wales has already overrun four years longer than planned, cost around 10% more than originally expected and saved £310m less than previously expected in 2019. Court orders for public protection are not being correctly implemented due to data errors in the digital case management systems, according to findings released by the National Audit Office. The parliamentary watchdog said that 'in 35 cases an individual was not fitted with an electronic monitoring tag when they should have been.' These individuals are believed to be convicted criminals released into the community on licence.

The area of most concern is a project that hoped to create a single online system that unites the work of the criminal courts and the Crown Prosecution Service (CPS) – the "common platform." Common platform was intended to reduce inefficiencies by creating a system that allowed authorised users to track the entirety of each case from charge to verdict. The Courts and Tribunals Service (HMCTS) and CPS recognised a single case management system to be the riskiest option due to the scale of the demanded changes, "but believed this option would maximise the project's benefits." The platform has proven to be more difficult than anticipated, and the project team "lacked a clear understanding of CPS's requirements," the National Audit Office report stated.

The system led to delays, a waste of £22.5 million, and further performance issues. The national implementation of the platform paused for seven months while the issues and "several major incidents" were addressed. Rollout was suspended for two more weeks when the system failed to send 3,011 important notifications to partner agencies. During seven months of the rollout, HMCTS recorded 231 critical incidents. The National Audit have identified mistakes made by the HMCTS, reporting they did not sufficiently assure that the platform was fit for purpose before implementation, causing performance issues. They failed to set evaluative criteria before the system's national roll out and did not clarify how it would judge whether the criteria would be met. HMCTS also did not leave adequate time to learn from early-adopter site evaluations; and adopted an online self-directed training approach which had to be extended to live support and more training.

One In 100 Police Officers Faced Criminal Investigation in 2021

Shanice Kelly, Justice Gap: Disturbing figures confirm that criminal charges against officers have 'skyrocketed' by 590% since 2012, with one in 100 officers in England and Wales facing criminal investigation in the last year alone. The Observer has found that the Police Federation, the staff association for police constables, sergeants, and inspectors, has received 1,387 claims for legal support for their officers facing criminal charges in 2022. The Police Federation support officers facing misconduct spanning from offensive messaging to more impactful offences such as sexual offences. His Majesty's Inspectorate of Constabulary and Fire & Rescue Services further reports that of the 668 volunteers who responded to their survey, 42 volunteers reported alleged criminal offences. Female officers and staff reported their experience in the workplace and social events, including unwarranted sexual comments by male officers, such as comments about vulnerable sex workers who were the victims of crime.

Concerns have previously been expressed regarding the leadership shown by senior officers who are said to have been covering up occurrences of misconduct towards female officers and staff, where it has been warned that 'hundreds if not thousands' of officers are surpassing the vetting system despite their concerning behaviour and history. In response to such failures in police officer dismissal and investigations, the Home Office is introducing a review of police standards and culture, to introduce a 'fair but robust disciplinary system' to ensure public confidence.

Met Rapists Latest Example of Historic Culture of "Endemic Misogyny"

Jack Sheard, Justice Gap: The Undercover Policing Inquiry today Thursday 23rd February, heard closing statements regarding the investigation into historic illegal policing tactics. The statement revealed that, as early as 1983, the Metropolitan Police was aware of the "widespread misogyny… at the highest levels." The inquiry focuses on the operations of the 'Special Demonstration Squad', an undercover unit working with Scotland Yard and the security services, which infiltrated protest groups between 1968 and 2008. The inquiry is examining conduct of 139 undercover officers who

spied on over 1,000 left-wing groups. During this time, police officers operated under assumed identities for extended periods of time, luring people into fictitious relationships in order to spy on them. One officer even fathered a child with an activist, before disappearing when the child was two. 'Women were used casually by the undercover officers according to their personal preferences…to maintain cover, gain access or obtain information,' the inquiry heard.

Closing statements made on behalf of 25 women deceived into relationships by undercover police officers drew attention to the 1983 report Police in Action. This report referred such acts as "rubber-stamping [Women Police Officers] on the bare bum." It is not clear whether the Met disclosed this report to the inquiry. Charlotte Kilroy KC argued that these acts 'had a strong influence on policemen's behaviour towards women, towards victims of sexual offences, and towards sexual offenders.' Failure to combat this "endemic" culture of misogyny and institutional sexism contributed to the recent scandals surrounding the Met, in particular the rapes committed by Wayne Couzens and David Carrick. The representative for the Met has admitted that the operations were "unjustifiable". The inquiry has heard that 'no one appears to have addressed their mind to the legality of the SDS' operations… had they done so… they should have decided to disband the SDS.'

Sanction for Judge Who 'Displayed Subconscious Bias'

Monidipa Fouzder, Law Gazette:A judge has been issued with formal advice after asking an ethnic minority litigant who was born in the UK whether she had researched the law 'in the country in which you are living'. A statement published by the Judicial Conduct Investigations Office last Friday states that the lord chief justice, with the lord chancellor's agreement, issued Her Honour Judge Tacey Cronin with 'formal advice for misconduct'. According to the statement, Cronin 'asked an ethnic minority litigant who was born in the UK whether she had researched the law "in the country in which you are living". During an investigation of a complaint by the litigant, Cronin acknowledged her question offended the complainant and apologised.

'A nominated judge concluded that by asking such a question HHJ Cronin had displayed an element of subconscious bias, appearing to imply that the complainant had not been born in the UK. The nominated judge made a finding of misconduct and recommended that HHJ Cronin receive a sanction of formal advice. The lord chief justice and lord chancellor agreed,' the statement continues. 'In reaching their decision, the lord chief justice and lord chancellor concluded that the judge's question had unintentionally breached the expectation set out in the Guide to Judicial Conduct that judges should ensure nobody in court is exposed to displays of bias or prejudice. They also took into account that the judge accepted responsibility for her actions and apologised.' The Constitutional Reform Act 2005 sets out sanctions for misconduct by judicial office-holders. They are, in order of severity: formal advice, formal warning, reprimand and removal from office.

Austerity-Hit CPS Can't Cope and People Aren't Getting Justice.

Guardian Opinion: We, the police, want the power to fix that. Crimes go unpunished while officers wait for permission to lay charges. For all but the most serious cases, we should make that call ourselves The writers of this article, are Craig Guildford, John Robins and Stephen Watson chief constables of three major UK police forces

If something is broken, then we should fix it. If we can't fix it, then we should replace it. The Crown Prosecution Service (CPS) is no longer able to give timely charging advice (namely while the suspect is under arrest and in the cells); not because of anything the CPS has done, but because it does not have the resources or the people to do what it used to. We have tried to fix it together over

the last two years, but the plasters are not sticking – and things are getting worse. So for the sake of victims, witnesses and all in the criminal justice system, we need to replace it now, by restoring to the police the ability to charge most offences while suspects are in the cells.

As metropolitan chief constables with decades of policing experience between us, we recall having joined policing shortly after the introduction of the 1984 Police and Criminal Evidence Act (Pace), with grumbling detective colleagues still mourning the demise of "judges' rules", the long-standing guidelines that related to police questioning – and the acceptability of the resulting statements and confessions as evidence in court. Like Pace, the creation of the independent CPS was exactly the right thing to do. However, the current tortuous means of progressing cases to court is absolutely unprecedented. Over the last 20 years, there has been a series of moves away from police custody sergeants making charging decisions to the current system, where only the CPS can decide, save in the most minor cases. Police officers now have to tell victims every day that they need to seek CPS "permission" to charge. Initially, this worked when CPS lawyers were in many police stations, during office hours, making decisions.

However, as resources and the CPS operating model changed through austerity, this service morphed into a telephone advice model called CPS Direct. It would be fair to say that the majority of frontline police officers, ourselves included, were unimpressed with how time-consuming and how bureaucratic that system became. Then, two years ago, ahead of the Covid restrictions, the CPS temporarily suspended the ability to get telephone advice because of its resourcing issues. That situation still remains – and there is no solution in sight. We now send them an electronic file for a charging decision which they now consider and advise us upon. This still takes some considerable time, especially when we have someone in the cells.

The result is officers having to tell victims and witnesses that they have been caused to release the suspect "under investigation" or at best "on bail". This does nothing to help victims and witnesses, build their confidence or feeling of safety – and does nothing to deliver the notion of "speedy justice".The answer is simple. The CPS is unable – and is likely always to be unable – to make charging decisions while the suspect is in the cells. So the director of public prosecutions needs to give the right back to the police to make charging decisions there and then in far more cases: domestic abuse, harassment, burglary, robbery, theft, knife crime, violent crime. We used to do this; officers want it, victims want it, defence lawyers want it, and we are sure the courts do too, but the system keeps saying no.

Where is the evidence to support our call? In March 2015, 16% of crimes were resolved with a charge and/or summons and now it is 5.6%. This is not because police have suddenly become less effective. It is because of so called attrition, where victim disengagement occurs and results in fewer charges due to those victims being worn down by time delays and a feeling of being unsupported by a seemingly faceless and insensitive system. Recent coverage of how charge rates for a variety of criminal offences have declined over time against recorded crime shows there has to be a more efficient and effective method of supporting the system. It is OK to acknowledge things have changed, that the CPS does not have the resources it used to.

Parliament made a very important decision to establish the CPS as the public prosecutor in England and Wales. Successive iterations of director's guidance from the director of public prosecutions (DPP) mandate how police forces must compile files of evidence, what offences are "chargeable" either directly, while a person is in police custody, or via a postal method for those persons dealt with voluntarily and reported for summons. That should all continue. The CPS, like many other public bodies, including the police and courts, had to change through

austerity, leading to a commensurate reduction in capacity. Yet we appear to be trying to do the same things. Despite recent funding increases and a shift in charging advice surrounding serious sexual offences, all too often our CPS colleagues appear to be far too thinly spread. Despite their best efforts, turning round a decision can often take much longer than they would like. The CPS should always conduct all criminal prosecutions. It should be allowed to concentrate its skills upon the most challenging and complex of cases that need to naturally make their way to the crown court. They should continue to own and uphold the standard for the charging threshold. The challenges are many, not least the backlog work currently being undertaken in the magistrates and crown courts, but if we allow the police to charge more offences we might also start providing swifter justice. Returning to the old ways of doing things represents a return to common-sense policing.

[Editors Note: If you have an opinion on this article, write to - Guardian, London office, Kings Place, 90 York Way, London, N1 9GU, UK]

Mueen-Uddin (Appellant) v Secretary of State for the Home Department

On appeal from the Court of Appeal Civil Division (England and Wales)

The Appellant was born in Bangladesh (known at the time as 'East Pakistan') and later naturalised as a British citizen. During violence in 1971, when Bangladesh achieved independence from Pakistan, 18 intellectuals were murdered in Dhaka. In 1996, allegations were made in a channel 4 documentary accusing the Appellant of being involved in those murders. Later, in 2013, the Appellant was convicted in absentia and sentenced to death by the International Crimes Tribunal in Bangladesh of crimes against humanity. The Appellant did not take any part in that trial. He has always denied the allegations made against him and maintained his innocence.

In October 2019, the Commission for Countering Extremism Commission (a non-statutory body expert committee for the Home Office) published report entitled 'Challenging Hateful Extremism'. The Report contained a footnote which referred to the Appellant's conviction and suggested he had links with violence in 1971. The Appellant sued the Secretary of State for the Home Department for libel and infringement of Articles 5, 6 and 10 GDPR. At the preliminary hearing it was held that the Report contained defamatory allegations of fact and personal data. The High Court struck out the Appellant's claim as an abuse of process. The Court of Appeal upheld the decision. The Appellant now appeals to the UK Supreme Court.

The issues are: This case is about whether the Court of Appeal was correct to strike out a defamation claim as an abuse of process. The UKSC is asked to decide:

1. Whether a foreign criminal conviction which a claimant did not have a full opportunity to contest was a relevant factor in showing that English proceedings which require determination of the same issues as those before the foreign criminal court are an abuse of process?

2. Are prior press publications of defamatory allegations admissible evidence of bad reputation in this context if such publications have taken place some months prior to the publication complained of and are uncontradicted by a successful claim for libel?

3. Can potential difficulties which the Respondent may have in proving the truth of the allegations which it had published about the conduct of the Appellant some 50 years ago be a relevant factor supporting a finding of abuse?

4. Did the Court of Appeal err in finding that a combination of partial aspects of the Hunter and Jameel abuse jurisdictions, none of which necessarily amount to abuse on its own, can properly ground a finding of abuse of process? Permission to appeal be Granted

Prisoners: Employment and Pay

Steve Reed MP: To ask the Secretary of State for Justice, how many (a) male and (b) female prisoners were (i) working in (A) voluntary and (B) paid work placements on release on temporary licence and (ii) paid enhanced wages under the Prisoners Earnings Act 1996 in public sector prisons in the latest period for which data is available.

Damian Hinds: Data on release on temporary licence (ROTL) is published quarterly: Offender management statistics quarterly: July to September 2022 - GOV.UK (www.gov.uk). The following table shows the number of prisoners who had at least one release on temporary licence (ROTL) to a paid work placement from public prisons in England and Wales between 1 July and 30 September 2022 (latest period available): Paid work Male 1,938 Female 195

Those in paid work placements on ROTL and in receipt of net weekly wages of £20 per week are treated as being in "enhanced wages work" and therefore liable to pay a levy of up to 40% of their earnings, after tax and any court fines or compensation, which helps fund the work of the charity Victim Support. It is not possible, except at disproportionate cost, reliably to determine how many of those in paid work during this period met these criteria, although it is very likely to have been most if not all of them because prisoners in paid work are typically paid at the same rate as employees from the community in the same role for that job.

My Friday Prison Release Led to a Disastrous Mistake'

Prisoners vulnerable to addiction, mental health issues or homelessness will no longer be released on Fridays under new plans to cut reoffending. One prisoner who breached parole after being released on a Friday says he felt let down by the system. He told the BBC his story and what it says about prisoners at risk of lapsing back into a life of crime. "By the time I got to the housing department, it was a Friday afternoon and there was no-one there to see me. I knew the offices wouldn't be open again until the Monday. I was quite fearful of where I was going to stay that night - I didn't want to stay on the streets."

Marc Conway was 17 years old when he was released, on a Friday, after three months in HMP Feltham young offenders' institution in London. Without anywhere to go, he made what he describes as a "disastrous mistake" and stayed with a "known associate". In doing so, he broke his licence conditions and was recalled to prison to serve out the remaining three months of his sentence. "I felt like I had let people down, first and foremost, that I'd been recalled back to prison so soon,I was angry, I was resentful of the system. I felt the system had let me down again and I dread to think what I would have done that night if I didn't have somewhere to stay."

Marc has served a number of sentences for a range of serious offences, last leaving prison four-and-a-half years ago. In 2019, he was one of the people who pinned down the convicted terrorist Usman Khan on London Bridge after Khan had fatally stabbed two people.

Marc now works with the Prison Reform Trust and says that he still sees people having similar experiences to the one he had, two decades on. "This happens time and time and time again. People are being released on a Friday and are not being able to access services," he said. "It's not just housing. It could be mental health services, it could be GP services, all sorts. I have known of people who have committed crime just to have somewhere to sleep that night. There's quite an easy solution. You have to go to probation on the day of release. Why can all the services not be under one roof and just stop Friday releases?" (Around one in three prisoners are released on a Friday, according to research by the charity Nacro.)