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Almost 1,000 Rapes in Prisons in England and Wales Since 2010

Police data underlines fears for the safety of inmates and staff amid overcrowding and budget cuts as a result of Tory austerity: Nearly 1,000 rapes were reported to have taken place in prisons since 2010, exclusive data obtained by the Observer from police forces in England and Wales can reveal. A further 2,336 sexual assaults were reported to police in the same period, and experts warned that the true figure for both crimes may be far higher because not all attacks would be reported.

In response to the Observer's findings, Andrew Neilson, director of campaigns at the Howard League for Penal Reform, said there has been "minimal research – and a worrying lack of coherent and consistently applied policies – in relation to consensual and coercive sex behind bars". The investigation comes amid growing concern about the safety of prisons, both for those who are incarcerated and for prison staff. Prisons face continuing issues with overcrowding, staff reductions and budget cuts, fuelled by more than a decade of austerity measures from successive Conservative-led governments.

The impact of austerity has left English prisons "unable to provide safe environments for rising prison populations", according to research by Nasrul Ismail, a lecturer in criminology at Bristol University. As of September 2022, just over half (52%) of prisons in England and Wales were overcrowded, said a government report. The government last year announced a £500m funding injection to create thousands of new prison places for men and women. There are just under 90,000 people in prison in the UK.

At the same time, prisons are struggling to recruit and retain staff. The government has launched an inquiry into staffing problems in the prison system after the number of prison officers and custodial managers fell by 600 in 2021-22. Losing staff puts safety at risk. Neilson said that the Howard League had called for staff to be given more training and guidance, "but we know that many experienced officers have since left the workforce and prisons have struggled to recruit and retain people to replace them".

The figures obtained by the Observer saw a notable increase in reported rapes and sexual assaults in the years after 2016, correlating with the period when austerity began to bite. Cuts to the Ministry of Justice (MoJ) budgets totalled £2.4bn by 2015-16, according to contemporary analysis by the Prison Reform Trust.

Durham constabulary received three reports of sexual assault in 2010 – this increased elevenfold to 33 in 2018. Humberside police saw reports of sexual violence double from five to 10 between 2015 and 2018. Cumbria police recorded a similar rise: the number of reported sexual assaults jumped from one in 2014 to eight in 2016. The increase in reports also correlates with eruptions of prison violence, including the 2016 Birmingham prison riot, which involved more than 500 .

Other forces saw a rise in reported rapes and sexual assaults during 2020 and 2021, when the country was coping with the coronavirus pandemic. Greater Manchester police received 18 reports of rape in 2020, and Wiltshire police received reports of four rapes in 2022 and three in 2020 – after receiving only three in the previous seven years combined.

Institute of Race Relations:Policing I Prisons I Criminal Justice System

Cases of police racism and sexism – and the way they are dealt with – are often linked, and as a reflection of this, this section includes information on police misogyny.

24 April: The family of Kelvin Igweani issue a statement outlining their failure to access mental health support for him after a jury finds that Kelvin, aged 24, was lawfully killed by Thames Valley police who shot him dead and Tasered him in June 2021.

26 April: The Chief Inspector of Prisons issues an urgent notification to the justice secretary for immediate action to improve conditions at Cookham Wood youth detention centre, where a quarter of boys are held in solitary confinement for extended periods, including two for more than 100 days, as a means of managing conflict between children. 30 April: Romford Business Improvement District, backed by Havering councillors and the Met, introduces an antisocial behaviour ban on people putting up their hoods in the town centre's shopping area. 3 May: The Public Order Act comes into force the day after Royal Assent, criminalising a wide range of protest activities and giving police powers of random protest-related stop and search.

3 May: The Met police is criticised after announcing its intention to use live facial recognition technology in policing the crowds at the coronation in the largest ever deployment in Britain.

7 May: Lewisham council in south London expresses concern about the Metropolitan police's treatment of counter-protesters during a Turning Point UK protest against a drag queen storytelling session at the Honor Oak pub in Lewisham. Police officers are also criticised for wearing 'Thin Blue Line' badges.

ECHR: In Prison For 44 Years and Lacking any Realistic Prospect of Release

Judgment Horion v. Belgium: The case concerned an applicant detained since 1979 and sentenced to life imprisonment in 1981 for the murder of five people in connection with a robbery. He complained that his life sentence was irreducible de facto. The Court noted that, since January 2018, the psychiatric experts and the domestic courts had agreed that extending the applicant's detention in prison was no longer appropriate, either in terms of public safety or for the purposes of his rehabilitation and reintegration into society. They therefore recommended that the applicant be admitted to a forensic psychiatric unit as an intermediate stage before his possible release. As a result, the domestic courts refused to approve any other sentence adjustments such as limited detention or electronic surveillance, emphasising that the applicant's admission to a forensic psychiatric unit was an essential step in his reintegration into society. However, according to those same courts, the applicant's admission to such a unit "appear[ed] impossible in practice owing to funding issues", since the units in question received State subsidies only for persons in compulsory confinement and not for convicted persons like the applicant. Accordingly, the Court considered that the predicament in which the applicant had found himself for several years owing to the practical impossibility of securing a place in a forensic psychiatric unit, although his detention in prison was no longer considered appropriate by the domestic authorities, meant that he currently had no realistic prospect of release, a situation prohibited by Article 3 of the Convention.

Principal Facts: The applicant, Freddy André Horion, is a Belgian national who was born in 1947. He has been in detention since June 1979 and is currently being held in Hasselt Prison (Belgium). In June 1981 the applicant was sentenced to death by the West Flanders Assize Court for the murder of five people in connection with a robbery. In November 1981 his sentence was commuted to life imprisonment with hard labour. The death penalty was abolished in July 1996. According to the documents in the case file, under the Act of 17 May 2006 the applicant has been eligible for day-release since 1 October 1991, for short-term leave of

absence since 30 September1992, for limited detention or electronic surveillance since 3 April 1993, and for conditional release since 30 September 1993.

From 1993 onwards he made numerous applications for conditional release, limited detention and electronic surveillance, all of which were rejected by the authorities, who considered that the rehabilitation plan was insufficient to prevent further serious offences. In March 2017 a panel of experts composed of two psychiatrists and one psychologist was appointed by the post-sentencing court to assess the risks posed by the applicant. The panel submitted a report finding that extending the applicant's detention in prison was not appropriate either in terms of public safety or with a view to his rehabilitation and reintegration into society. However, a return to society without any preparation, as proposed by the applicant, entailed a moderate risk of reoffending. The panel therefore proposed an intermediate solution consisting of a stay in a forensic psychiatric unit which would make it possible to mitigate the risks and provide the applicant with an appropriate living environment that would serve as a transition between prison and society. The applicant would be accompanied by staff trained to support him and assist his progress towards reintegration.

The applicant subsequently applied to all the medium-security forensic psychiatric units in the Flemish Community for admission. His applications were refused because the units in question received State subsidies only for persons in compulsory confinement and not for convicted persons. The applicant therefore complained before the European Court that, despite the experts and the domestic courts having found that extending his detention in prison was no longer appropriate, he had no practical possibility of rehabilitation as those same courts refused to release him until he had spent a period of detention in a forensic psychiatric unit. However, he could not be transferred to such an institution owing to his status as a convicted person, which was distinct from that of a person in compulsory confinement.

Decision of the Court 3: The Court noted that since January 2018 the psychiatric experts and the post-sentencing court had agreed that extending the applicant's detention in prison was no longer appropriate, either in terms of public safety or for the purposes of his rehabilitation and reintegration into society. They therefore recommended that the applicant be admitted to a forensic psychiatric unit as an intermediate stage before his possible release. As a result, the post-sentencing court refused to approve any other sentence adjustments such as limited detention or electronic surveillance, emphasising that the applicant's admission to a forensic psychiatric unit was an essential step in his reintegration into society.

The case file showed that all the medium-security forensic psychiatry units in the Flemish Community, when contacted by the applicant and the psychosocial department of Hasselt Prison, had stated that the applicant could not be admitted owing to his status as a "convicted person", that is to say, a person held criminally responsible for the acts he or she had committed, as those units were for "persons in compulsory confinement" only. Thus, the applicant found himself in a predicament: on the one hand, the competent domestic authorities considered that he no longer belonged in prison, at least since January 2018; on the other hand, there appeared to be no practical prospect of his release, in view of the requirement that he be admitted to a forensic psychiatric unit. As matters stood no intermediate solution appeared to be available to the applicant, owing to the particular nature of his situation as a person who had been detained for a lengthy period but was not in compulsory confinement.

The Court did not underestimate the particular nature of the applicant's situation, as emphasised by the Government, given that he had been detained since 1979 and had spent most of his life in prison. Nevertheless, the situation complained of by the applicant had persisted

for over five years without any solution being found by the authorities despite the numerous steps taken by the applicant. Moreover, the Government had not indicated any steps which the applicant could or should take in order to resolve his predicament.

In the Court's view, a purely formal possibility of applying for release after a certain period was insufficient to satisfy the requirements of Article 3 of the Convention, which guaranteed an absolute right. Accordingly, it considered that the predicament in which the applicant had found himself for several years owing to the practical impossibility of securing a place in a forensic psychiatric unit, although his detention in prison was no longer considered appropriate by the domestic authorities, meant that he currently had no realistic prospect of release, a situation prohibited by Article 3 of the Convention. There had therefore been a violation of that provision. Just satisfaction (Article 41). The applicant did not submit any claim for just satisfaction.

Prison Staff at HMP Chelmsford Contributed to Death of Vulnerable 36-Year-Old

Ben Maslin died on 17 October 2018 at Broomfield Hospital. Ben was transferred to Broomfield Hospital from HMP Chelmsford on 4 October 2018 after being found unresponsive in his cell that afternoon. Ben had also been found unresponsive on the morning of 4 October 2018, resulting in an emergency call. Multiple failings were found across both prison and healthcare staff, a number of which were possibly causative of Ben's death.

During 11 days of evidence, the inquest jury heard: At HMP Chelmsford around the time of Ben's death, drugs were as easy to access as tea bags; The nurses who treated Ben described the situation within the prison as "dangerous" due to low staffing levels around the time of Ben's death and one revealed that she had been part of a whistleblowing complaint made by six nurses to Essex Partnership University NHS Foundation Trust prior to Ben's death; Prison staff were aware that illicit substances would be gifted to vulnerable people in prison by those distributing the substances within the prison in order to test the potency of new substances or batches; Ben was prescribed various medications with sedative effects from multiple prescribers within the prison, which may have placed him at higher risk of adverse effects from his known illicit drug taking. Despite this, no person had overall responsibility for the management of his prescriptions and the risk of dangerous interactions; and, Despite being managed under ACCT procedures (the Prison Service care-planning system aimed at supporting those at risk of suicide or self-harm), Ben's triggers for self-harm were not recorded or managed effectively, leading to a lack of adequate safeguards.

The jury concluded that prison and healthcare staff did not sufficiently consider or adequately manage the inter-relationship between Ben's mental disorder, self-harm and illicit drug taking, which possibly contributed to his death. The jury also found further failings, including: The healthcare response and subsequent level of observations and processes were inadequate after Ben was found unresponsive on the morning of 4 October 2018, which possibly contributed to his death; Insufficient safeguards were in place and maintained upon Ben's transfer to D Wing on 1 October 2018; There was a delay by prison officers in calling an emergency 'Code Blue' when Ben was found unresponsive for the second time on 4 October 2018; The quality of recorded observations, in place to protect Ben's safety, were lacking; and, There was insufficient training and support available to healthcare staff in relation to the symptoms and effects of Novel Psychoactive Substances (NPS).

In addition to the failings identified by the inquest jury, the Ministry of Justice admitted that there was a delay in the wing emergency bag containing oxygen being brought to Ben's cell in response to both of the emergency calls on 4 October 2018. The inquest jury heard that nurses would have administered oxygen earlier if the bag had been brought before they arrived at the cell. HM

Coroner is considering a number of matters of concern which may give rise to her duty to issue a Preventing Future Deaths report and has requested that further information be provided by the prison and healthcare provider within 21 days of the conclusion of the inquest hearing.

Since 2018, HMP Chelmsford has been in special measures1 as a result of concerns about safety, a negative staff culture, a lack of accountability and management oversight and a poor daily regime for prisoners. The full inspection of HMP Chelmsford by Her Majesty's Inspectorate of Prisons (HMIP) prior to Ben's death (in May and June 2018) raised numerous concerns at prisoners at risk of self-harm and suicide were managed, including that repeated recommendations from the Prison and Probation Ombudsman had not been implemented – including poor assessment and management of prisoners' risk of suicide and self-harm. Following an unannounced inspection of HMP Chelmsford in August 2021, the Urgent Notification process was invoked following significant concerns about the treatment of and conditions for prisoners.2 Inspectors emphasised that the findings of this inspection were particularly disappointing bearing in mind the observations made in 2018. Ben's family were represented by INQUEST Lawyers Group members Sam Hall of ITN Solicitors and Adam Wagner of Doughty Street Chambers.

Evidence Obtained In Murder Conviction Breach of Basic Rights - Violation of Article 6/3

The case concerned the applicant's defence rights and privilege against self-incrimination. In January 2016, while drunk, the applicant set fire to his drinking partner's jacket, with the latter sustaining severe burns and dying as a result. The applicant was convicted of aggravated murder and sentenced to 25 years' imprisonment. The judgments of the national courts referred explicitly to statements he had made during his informal questioning which had taken place before he had seen a lawyer and allegedly while still under the effect of alcohol.

The Court found in particular that Mr Lalik had not been properly informed of his defence rights. It expressed concern that the national courts had admitted and assessed evidence obtained in breach of those fundamental guarantees. The explanations that Mr Lalik had given during his informal questioning had served as key evidence in establishing his intent to kill his friend, which in turn had led to his conviction for murder. In the Court's view, such reasoning went against the concept of a fair trial.

Principal Facts: The Court found that Mr Lalik had not been properly informed of his rights. It could not be sure that at the time of his arrest Mr Lalik had been told about his right to remain silent, his right not to incriminate himself and his right to consult a lawyer. In any event, he had not been given the information the following morning prior to being informally questioned, and his alcohol level had not been checked again. The first time he had seen a lawyer was after three hours of questioning and with a police officer present in the room.

The Court was concerned that the national courts had admitted and assessed evidence obtained in breach of those fundamental guarantees. The contents of explanations that Mr Lalik had given during his informal questioning had served as key evidence in establishing his intent to kill his friend, which in turn had led to his conviction for murder. Despite the Polish Code of Criminal Procedure not prohibiting the use of spontaneous statements made during arrest, the Court did not consider that his statements had been spontaneous, seeing as they had been made in the presence of three police officers during a three-hour bout of questioning. They had been recorded in an official note signed by one of the police officers. The Court found that the use of those explanations had significantly affected the course of the investigation and, eventually, the national courts' findings. Although Mr Lalik had explicitly challenged the use of those explanations before the national courts, his arguments had been dismissed.

The Court considered that conducting a session of informal questioning after Mr Lalik's arrest without informing him of his rights, combined with the fact that the police officer who had written the official note had been questioned during the trial, had put Mr Lalik at a disadvantage from the outset of the investigation. It was concerned that the domestic courts had not only endorsed such an approach but had also made direct reference to the applicant's initial explanations given the morning after the incident and considered them to be particularly credible, since – at that time – the applicant had had "no time yet to think what would be beneficial to him and what detrimental". In the Court's view, such reasoning went against the concept of a fair trial. Therefore, the Court found that the criminal proceedings, when considered as a whole, could not be considered as fair. There had accordingly been a violation of Article 6 § 3 (c) of the Convention.

Observing that it was impossible to speculate as to the outcome of the proceedings had there been no breach of the Convention, the Court noted that Article 540 § 3 of the Polish Criminal Code provided for the possibility of reopening criminal proceedings when such a need resulted from a decision of an international body acting on an agreement ratified by Poland. Just satisfaction (Article 41): The Court held that a finding of a violation constituted in itself sufficient just satisfaction and rejected the applicant's claim in respect of pecuniary and non-pecuniary damage.

IPP Prisoners Report Increased Hopelessness Following Resentencing Rejection

Independent Monitoring Board: Following the government's decision to reject the Justice Select Committee's recommendation for a resentencing exercise for those serving imprisonment for public protection (IPP) sentences, Independent Monitoring Boards (IMBs) have been speaking to IPP prisoners about the impact of this decision, and the sentence itself, on their wellbeing. Three apparently self-inflicted deaths of people serving IPP sentences have been reported in the four weeks since the government's decision was announced, a third of the record high number of nine self-inflicted deaths of IPP prisoners in the whole of 2022.

IPP prisoners who spoke to IMBs described increased feelings of hopelessness and frustration following the announcement, which Boards noted was a catalyst for poor mental health, violence and disruptive behaviour. IMBs across 24 prisons in England and Wales also found that: Many IPP prisoners were questioning whether they would ever be released now and were fearful that they would die in prison. Progression pathways were poor and unclear, with many being held in inappropriate prisons where they could not access the courses they need for parole and release. There was inadequate preparation for release, which could lead to recall to prison: for example, because of issues arising from the loss of accommodation. Some comments from IPP prisoners: 'Nothing has changed. Hope kills you. No hope now'. - 'I wake up each day not wanting to be alive, even when I am released I am waiting to come back to prison….my mental health is in bits'.

Dame Anne Owers, National Chair of the IMBs said: 'For some years now, IMBs have been highlighting their concerns about prisoners still serving IPP sentences, which were abolished over ten years ago, and the difficulties they face in progressing towards release.' This briefing shows that those prisoners' feelings of hopelessness and frustration have significantly increased following the rejection of the Justice Committee's recommendation for resentencing, Indeed, there have been three apparently self-inflicted deaths of IPP prisoners in the four weeks since the announcement. In IMBs' written evidence to the Committee's IPP inquiry, I urged the Committee to consider recommending legislation to commute IPP sentences to determinate ones. As the safety, wellbeing and hope of IPP prisoners deteriorates, we consider that a resentencing exercise is still vital.'

Call For Evidence on Open Justice Amid Increasingly Digitised Justice System

The Ministry of Justice has advertised a call for evidence on a range of topics concerning open justice, access to data and the transparency of court and tribunal services. The document describes 'open justice' as a principle which allows the public to scrutinise and understand the workings of the law, building trust and confidence in our justice system. Prior to the digitisation of the justice system, open justice has typically been secured by the use of public galleries, the document notes. But with the recent advent of virtual hearings and the overall move towards digitisation of the justice system, the MoJ believes the need to examine how open justice continues to be upheld has arisen.

The contents of the call for evidence cover many of the issues raised in a 2022 report from the Justice Select Committee (JSC), Court Reporting in the Digital Age, which produced recommendations concerning topics such as published listings, broadcasting, remote observation, access to court documents and the publication of judgments. It also calls for responses on open justice matters which affect all members of the public, including issues across jurisdictions, HMCTS services, within legislation, throughout public legal education, and on access to data and information.

The call for evidence marks the first public evaluation of open justice since 2012.

In a foreword to the call for evidence Parliamentary Under Secretary of State for Justice, Mike Freer MP, said: "Open justice is a fundamental principle at the very heart of our justice system and vital to the rule of law – justice must not only be done but must be seen to be done. Its history and importance in law can be traced back to before the Magna Carta. It is a principle which allows the public to scrutinise and understand the workings of the law, building trust and confidence in our justice system." Respondents have until 7 September 2023 to give evidence.

Court of Appeal Confirms Refusal of Habeas Corpus for British Citizens in Syrian Camp

Freemovement: The appeal of C3 and C4, two British women who travelled to Syria to join the Islamic State in Iraq and the Levant who were subsequently detained in a camp in northern Syria, has been dismissed. The case is C3 & Anor v Secretary of State for Foreign, Commonwealth & Development Affairs. Since the collapse of ISIL in 2016-17, C3 and C4 have been detained Camp Roj in northern Syria. Conditions in the camp are dire. You can read more about the background to the case, the conditions in the camp, and why the Divisional Court originally refused the applications for habeas corpus here.

C3 and C4 were previously deprived of their British citizenship. This was overturned by the Special Immigration Appeals Commission because the decisions would have rendered them stateless. C3 and C4 brought their applications for a writ of habeas corpus on the basis that the Secretary of State could secure their release from detention, including making requests to those in charge of administration in the camp (AANES), and organising emergency travel and documentation.

The Secretary of State argued that this would mean expanding the scope of the writ of habeas corpus beyond the circumstances in which it has been held to be available in previous case law because it involved the Secretary of State making a number of discretionary decisions (including securing consular assistance, travel documentation and travel arrangements). The AANES authorities were prepared to release C3 and C4 but because they required these arrangements for the release to go ahead, it is them, not the Secretary of State, "who are determining whether, and in what circumstances [they] can be released and who, thereby, control their custody". The Secretary of State may be able to assist in the release, but their ability to do so does not mean that they have custody of, or control of C3 and C4. The

Divisional Court concluded that in these circumstances, the writ of habeas corpus is not available.

Jump In Self-Harm and Assaults at Women's Jails

I*nside Time:* Rates of self-harm in women's prisons have increased again to record levels, while assaults have also risen, according to figures from the Ministry of Justice. In 2022 there were 16,140 incidents of self-harm in women's jails in England and Wales – an increase of 37 per cent on the previous year's total. It equates to five incidents for every woman in custody, and means that the rate of self-harm among female prisoners is now 10 times higher than among their male counterparts. Self-harm in male jails fell by 6 per cent year-on-year. There were 1,343 recorded assaults in women's prisons in 2022, an increase of 21 per cent on the previous year's figure. Men's prisons also saw assaults rise, but only by 3 per cent. The rate of assaults in female jails, at 419 per 1,000 prisoners, is now significantly higher than in male jails, where it is 255 per 1,000 prisoners. However, assaults in male jails were twice as likely to be classed as "serious" – causing extensive injury or requiring hospital treatment. Across all jails in the 12 months to March there were 322 deaths of prisoners, up by 12 per cent on the previous 12 months. Of these, 82 were self-inflicted compared with 79 in the previous 12 months.

The figures, published on April 27 in quarterly Safety in Custody Statistics, led to warnings from charity leaders about overcrowding and staff shortages in jails. Pia Sinha, who was the Prison Service official responsible for women's prisons until she left this year to become chief executive of the Prison Reform Trust, said: "We are seeing more and more women with a high level of mental health need entering custody. This has undoubtedly contributed to the shocking rise in self-harm in the women's estate. "Prison leaders urgently need to go back to basics and prioritise the delivery of safe, consistent and fair regimes in prisons to address the underlying distress women are experiencing as a result of being in custody. Health and justice must work together to ensure that there are viable alternatives to custody so that these women get the treatment and support they need." Andrea Coomber, chief executive of the Howard League for penal reform, called the numbers "tragic" and said: "A 37 per cent increase in self-harm incidents in women's prisons is truly alarming. Although the number of assaults recorded is not yet as high as we saw before the pandemic, it appears to be rising fast. With jails now so crowded that people are being held in police cells, clearly the system is becoming less and less safe. The government must respond urgently, and it should begin by ending its plan to expand the prison population. It makes no sense to be building more jails when there are not enough staff to safely run the ones we already have."

'Bring HMP Forest Bank Under State Control'

Inside Time: Politicians have called for a privately-run prison to be bought under Government control after a regional newspaper published an exposé into conditions there. The Manchester Evening News published a series of reports on Sodexo-run Forest Bank, in Salford, including a claim from an anonymous prison officer that "Prisoners are able to do almost anything they want because the staff either don't care, aren't experienced enough or just simply want an easy life." Among the claims made by the paper were that drugs are rife, the brewing of hooch is widespread, violence is commonplace and prisoners "run the wings". It was also alleged that staff feel "unsafe", that a lone prison officer can be "left to guard 100-plus inmates", and that staff buy their own uniforms from M&S and Asda because not enough is provided for them.

In response, Paul Dennett, the Salford city mayor, and Rebecca Long-Bailey, MP for Salford and Eccles, wrote to the Ministry of Justice calling for it to cancel its contract with Sodexo to run the prison, and bring it back under state control. Both politicians are Labour, and Long-Bailey is a long-standing critic of prison privatisation. They said in their joint letter: "We are

writing to request an urgent investigation into these reports of mismanagement with resultant report to be made publicly available. Further, if the recent reports are indeed confirmed by your investigation, then it would in our view be prudent for the prison to brought under Government control with immediate effect."

Responding to the newspaper, a spokesperson for the prison said: "HMP Forest Bank effectively services the needs of the Greater Manchester courts while managing a complex population at the front end of the prison system. When adjustments to the prison regime are required to guarantee the safety of colleagues and prisoners, those changes are made. We continue to work with police to tackle the conveyance of illegal items, including a joint operation last week. Over the last twelve months, conveying has reduced, making HMP Forest Bank a safer community for all staff and prisoners. HMP Forest Bank is always willing to listen to anyone who wishes to raise concerns at a local level."

A Prison Service spokesperson told the newspaper: "Privately-run prisons are among the best performing across the estate and have been consistently praised by independent inspectors." In 1998, under the then-Labour government, Sodexo secured a 25-year deal to design, build and run Forest Bank, under a Private Finance Initiative contract. It is due to run out in January 2025 and the Government has not yet decided whether to extend it. Sodexo, a French-based catering and facilities management group, has this year become the UK's biggest operator of private prisons, with seven in total.

Gagging Juries

Good Law Project: If juries cannot hear all the evidence, justice cannot prevail. Good Law Executive Director, Jo Maugham, writes on the threat that gagging juries poses to our justice system – and to our planet. In March, two climate change protestors, Giovanna Lewis and Amy Pritchard, were imprisoned. Not because they had protested, although causing a public nuisance was the offence with which they were tried. On that offence the jury could not reach a verdict. They were imprisoned because they disobeyed a direction from the judge – that they should not tell the jury why they had protested. In telling the jury why, the judge said, they were in contempt of court. And he sentenced them to seven weeks in prison. Several weeks later, Trudi Warner, a retired 68 year old social worker, was ordered to appear at the Old Bailey for contempt. Her alleged crime? Standing outside court she had held up a sign that said "Jurors. You have an absolute right to acquit a defendant according to your conscience."

Yet juries do have that right – indeed it may be their most important function. The mightiest power the State wields is to imprison its citizens. The fossil fuel industry has known for decades what its activities mean. They mean the loss of human life, which the civil law should prevent but does not. The scientific evidence is that global heating, the natural and inevitable consequence of its actions, will cause the deaths of huge numbers of people. The criminal law should punish this but it does not. Nor does the law recognise a crime of ecocide to deter the destruction of the planet.

The law does not imprison those who destroy the planet – but it does imprison those who protest the destruction. This may or may not seem wrong to you. But hitherto our criminal justice system has agreed that it is important how it feels to a jury. There is no single rationale for juries. But we have them to ask, is this thing the State is doing fair? Is this particular exercise of its mighty power to deny liberty to its people right? Does it feel, to twelve people good and true, like justice? Juries are how we temper the tendency of the State to totalitarianism. If the law diverges too far from justice it is a jury's function to say 'justice must prevail'. But to perform this function they must hear the evidence. Or we risk silencing not just protestors against the destruction of the planet. We will gag juries too.

Women Continue to be Sent to Prison for Being Mentally Ill

Nicola Campbell, Justice Gap: The Independent Monitoring Boards (IMBs) have published a briefing on Mental health concerns in woman's prisons which has emphasised concerns surrounding the practice of sending women to prison as 'a place of safety' under the Mental Health Act or for their 'own protection' under the Bail Act. IMBs monitor and report on the standards and treatment of those detained in prisons across England and Wales and have repeatedly expressed concern over the high level of mental health problems and instances of self-harm in women's prisons. The Mental Health Bill currently before Parliament proposes to curtail the courts power to send vulnerable women to prison solely on the grounds of the mental health state. However, despite ongoing debate to reform these practices, the IMBs have found that the number of mentally unwell women held in prison has actually increased.

The report found that between 1 August 2021 and 31 August 2022, the courts sent 75 women to HMP Bronzefield on mental health grounds, an increase from 28 women in the period between 1 August 2020 and 31 July 2021. The Board at HMP Styal was made aware of an incident when a woman was imprisoned for having no fixed abode because there was no psychiatric intensive care bed available in the community. Chief Executive of the Howard League for Penal Reform, Andrea Coomber ,said: 'This briefing shows the effects of the archaic legislation which allows courts to send mentally unwell women to prison. Prisons are not healthy environments for these women and do not provide the help these women need. Women that are in a state of mental crisis require help and support, not weeks or months in an overcrowded prison. The use of prison to secure protection and welfare in any circumstance is wrong in principle and ineffective, even damaging, in practice. It is crucial that legislation under the draft Mental Health Bill to end these practices is advanced and implemented, before even more women are made to suffer under these provisions.

Digital justice: if You Can't Measure it, You Can't Improve It

Transform Justice: What is the point of video hearings in the criminal courts beyond saving participants travel time and hassle? The digital court reform programme was originally designed to save money through eliminating the need for traditional court rooms - court hearings could be held entirely via zoom or the equivalent. Apart from a handful of hearings during the pandemic, hearings in criminal courts have never been fully video. But criminal courts did pivot to greater use of hybrid hearings where one or more participants would join a traditional court hearing via video link. If court rooms still needed to be used, digital court reform in the criminal courts had to be justified via a different cost saving. Hybrid hearings were talked up as more accessible, convenient and quick. The government and the PCC for Surrey and Sussex separately commissioned research on hybrid first appearance hearings in magistrates' courts, in which defendants appeared on video from police custody. This research suggested that such hybrid hearings were more expensive, took longer and led to worse outcomes for defendants. The Ministry of Justice has always promised to check whether these indicative findings could be backed up. So, I was excited to see a new report on exactly this question.

Unfortunately, this latest report doesn't answer the million dollar question – does the appearance of the defendant on video in a substantive hearing affect the outcome? This new report is about hearings in the Crown court, not the magistrates' court (where the majority of remote

links are used) and compares outcomes in cases where at least one participant appeared on video in a plea hearing with cases where everyone was in person. The research found no difference in the outcome (guilty plea/not guilty plea/conviction/acquittal) whether the plea hearing was remote or in person. This is interesting but, without knowing who was on the video link, we still can't dismiss the possibility that video links make a difference to defendants' pleas – if all the remote users in the study were prosecutors and none were defendants (as may have been the case) that will have skewed the results. All previous studies which suggested that hybrid hearings affected outcomes were of magistrates' courts and involved defendants on the video link.

The latest report was on surer ground when it came to assessing the speed of remote hearings versus in person. It found that the actual plea hearings were slightly shorter when remote, but that the time taken for the whole case – adding together all the hearings – was the same whether the plea hearing was remote or not. This is not surprising given that the setting up time for a remote hearing can be much greater and technology problems can prevent it happening at all. This is not the first research to suggest that hybrid hearings seldom save court time. And what the research doesn't address is whether a hearing which is six minutes shorter is per se better? If the hearing was six minutes shorter but the defendant left the hearing not understanding what went on, surely it wasn't worth saving a few minutes? All research on defendants' effective participation suggests that defendants fare worse on video – they find it harder to communicate with their lawyer remotely before, during or after the hearing and to understand what's going on. The breakdown in human communication can lead to tragedy. Two prisoners have taken their own life recently – one after a day attending his own trial remotely, another after a remote sentencing hearing. We need more research on the real outcomes of using video links – not just remand decisions, sentencing and convictions but the actual human outcomes.

Many defendants want to use remote links because it's more convenient. But others would rather go to court and are prevented from doing so. Another new report suggests witnesses can also be put under undue pressure to use video links rather than appear in person. Section 28 allows vulnerable witnesses to be cross examined in advance of the trial on video link. This reduces delay since the cross examination can be done months before the trial and can reduce stress for witnesses. This report is the second "process evaluation" of Section 28 and the findings pretty much reflect the first. But we are still completely in the dark as to whether using section 28 makes a difference to judicial outcomes, nor which special measure is best for witnesses.

Some witnesses were definitely happy with pre-trial video cross examination, but others were not: "some witnesses reflected that s.28 did not improve their experience or evidence, with reasons including perceived loss of impact and presence of the defendant at the court building". And "practitioners raised concerns about whether witnesses were able to make an informed choice, with some suggestions that police may be influencing their decisions on what special measures to use or providing incorrect information".

Advocates, including prosecutors, have expressed concerns that evidence given by video cross examination may have less impact on juries than evidence given in person – that Section 28 may lead to more acquittals. Most practitioners interviewed for this research (though the sample included only three trial barristers) felt that Section 28 made no difference to pleas or convictions. But without data we have no idea, and it is not clear if the Ministry of Justice is conducting an impact evaluation. If section 28 is linked with more acquittals, we owe it to witnesses to let them know – so they can weigh up the benefits of being cross examined pre-trial on video versus the risks of biasing the verdict.

So we have more research but are none the wiser as to whether defendants and/or witnesses appearing on video makes a difference to judicial outcomes. What a pity that practitioners, witnesses and defendants should be facilitated (and in some cases pressurised) to use video links in the absence of this basic information. Meanwhile the Legal Aid Agency, which has previously supported remote legal advice (where the lawyer communicates with their client by video), seems to have had a volte face. Detained women in the Derwentside Immigration Centre had been offered only telephone or video legal advice. They launched a legal challenge on the basis that "access to face-to-face legal advice is essential to ensuring people's cases are given a fair hearing and to allow meaningful access to justice". The legal challenge failed, but the moral argument succeeded, and the Legal Aid Agency have now agreed that all legal advice surgeries in immigration detention centres must be face to face. This is a landmark decision – are public agencies now recognising that remote communication may jeopardise fair trial rights?

Settlement Achieved in Road Traffic Stop Handcuffing Case

The City of London Police have paid £7,500 in damages for assault to a man who was driving through the City of London in early 2020 when he was stopped under the Road Traffic Act. Despite SA being compliant with the stop, he was handcuffed within two minutes of stopping his vehicle. He remained in handcuffs at the roadside for almost 20 minutes while officers inspected his vehicle. During this time he was also threatened with PAVA spray. In response to SA's formal complaint, a police Use of Force expert described the use of handcuffs as 'premature' and noted that there was 'little communication by the officers' before they were used. This incident reflects ongoing concerns around the routine use of handcuffs by the police, as highlighted by the IOPC in their National Stop and Search learning report of April 2022 (available here). Statistics published by City of London Police for the relevant period (available here) show that handcuffs were the first 'tactic' used by officers in 24% of incidents.

Justice for Migrants: Give People Proof of Their Rights

Tens of thousands of migrants are being wrongly subjected to the hostile environment because the Home Office refuses to give people proof of their right to be in the UK. They are suspended from work, have benefits taken away, or denied housing, with families driven to poverty, hunger and spiralling debt. Our clients CA and Refugee and Migrant Forum of Essex and London (RAMFEL) are taking the government to court in a test case challenging the lawfulness of the system.

When people apply to renew their visa in time, they automatically obtain leave under section 3C of the Immigration Act 1971 while they wait for their decision – with the right to live and work in the UK as before. However, the Home Office issues no document as proof of this right. This can create huge problems when the person must interact with the 'hostile environment', introduced in 2012, which excludes people from working, renting, driving, accessing healthcare, claiming benefits, or opening a bank account if they cannot prove they have leave to remain. The parallels with the Windrush scandal are striking, with people being subjected to extreme hardship as they have no 'documents', even though they have complied with immigration law.

£10k Compensation To Unaccompanied Asylum Seeking Child

MR, was a child refugee from Afghanistan seeking family reunion with his uncle in the UK. The Home Secretary unlawfully refused his family reunion requests and he was required to take the Home Secretary to Court to enable his reunion with his family in the UK. An individual's physical and moral integrity is an essential aspect of their private life.