Miscarriages of JusticeUK (MOJUK)
22 Berners St, Birmingham B19 2DR
Email: mojuk@mojuk.org.uk Web: www.mojuk.org.uk

MOJUK: Newsletter 'Inside Out' No 954 (07/06/2023) - Cost £1

CPS Concede Conviction of Andrew Malkinson 'No Longer Safe'

Jon Robins, Justice Gap: The Crown Prosecution Service (CPS) will not contest the appeal of Andrew Malkinson on the basis that his conviction is 'no longer safe'. It is now up to the Court of Appeal to make the ultimate decision as to whether or not Malkinson's conviction for a 2003 rape will be overturned, and on what basis, after a hearing scheduled for July. As reported on the Justice Gap, Andrew Malkinson spent over 17 years in prison despite always protesting his innocence (you can read Bob Woffinden on the case here). The Criminal Cases Review Commission (CCRC) referred his case to the appeal court in January after another man's DNA was found on the woman's clothing. As reported by Emily Dugan in the Guardian, until this week it was thought that Greater Manchester police and the CPS might fight the case.

'I've suffered incalculably for the last 20 years as a result of my wrongful conviction, and I continue to suffer each day,' commented Andrew Malkinson. 'I have always known I am innocent. Finally, the prosecution has acknowledged my conviction should not stand. Of course, it is still the Court of Appeal's decision to grant me justice. I sincerely hope they will give serious consideration to the disclosure failures which denied me a fair trial. The police must be made accountable – no one should have to suffer what I've been through.'

Emily Bolton, Andrew's solicitor at the legal charity APPEAL, called the decision 'a major milestone in Andy's quest for justice.' 'The CPS – which nearly two decades ago prosecuted Andy – has accepted that his conviction should be overturned. However, it is for the Court of Appeal to decide whether to rule Andy's conviction unsafe and, if so, on what basis. Andy's 17 years of wrongful imprisonment were avoidable. We will be arguing that Andy's conviction is unsafe not only in view of new DNA evidence, but because there were significant disclosure failures at his trial. It is important to dissect what went wrong in Andy's case in order to protect victims of crime and prevent wrongful convictions in future.'

Prison Services Rules Preventing' Women and Children From Rehabilitation

Clotilde Bereux, Justice Gap: A report from HM Inspectorate of Prisons found that the rules for managing child and women prisoners assessed as presenting a high level of risk to the public were prevented from accessing interventions to reduce their level of risk and encourage rehabilitation. The thematic review, published on 23 May 2023 examined the treatment of women and child prisoners who are assigned 'restricted status.' At the time of the report, 18 women out of the 3 219 held in the women's estate, and nine out of 434 children were assigned a restricted status. Whilst high risk adult male prisoners are detained in specific prisons with additional security, there is no equivalent for women and child prisoners as they make up less than 5% of the prison population. Instead, women and children who present a greater risk of harm to the public are categorised as 'restricted status' prisoners and are subject to additional security measures and restrictions in order to 'minimise the possibility of escape and protect the public from harm.'

However, the report found significant issues with the assessment of women and child prisoners in order to determine their level of risk as well as with the additional security measures arising from being assigned 'restricted status.' In relation to the assessment of prisoners and the determination of their 'restricted' status, the report highlights that the panel responsible for deciding who had restricted status contained no experts on youth or female prisoners and therefore lacked expertise. More generally, the current policy is based on category A male prisoners and 'does not take into account the different risks posed by women and children.'

Moreover, concerns were raised regarding the measures implemented, deemed to be 'too rigid and, in many cases, superfluous'. For instance, children were strip-searched every 28 days regardless of the necessity of such measures; out of the 21 cases reviewed by inspectors, they only found it justified in one. The review also emphasised how children and women prisoners with restricted status found themselves in an impossible position, where they could not access rehabilitation, risk-reduction programmes or education because of their restricted status. However, these programmes are essential to reducing the risk they present. The report concludes that a new approach to managing restricted status is needed. The chief inspector of prisons, Charlie Taylor concluded that: 'These arrangements apply to a very small number of women and children, but they are indicative of a lack of common sense and proportion that we see too often… The priority must be that the public are protected, but that is not achieved through a one-size-fits-all approach to risk.'

Not Guilty of Kidnap, False Imprisonment and Firearm Offences

DK was the first defendant on an indictment alleging 13 counts. DK and three other men was alleged to have kidnapped three complainants and held them against their will in a property in south-east London. DK's defence was that he was involved in a fraud with the complainants. The complainants were cross-examined in detail. Their accounts were inconsistent with each other and inconsistent with previous statements. Following service of a further defence statement and cross-examination, the police reviewed the phones of the complainants. The police found evidence that complainants were involved in a fraud as DK claimed. As a result of the cross-examination and further evidence uncovered the prosecution offered no evidence on 12 of the 13 counts. DK pleaded to a single count of blackmail.

Lawyers Failed in Libor Investigation, Senior MP Claims

John Hyde, Law Gazette: Lawyers at the centre of investigating the Libor rigging scandal made 'fundamental errors' which protected bank bosses from prosecution, a senior backbencher has told parliament. Conservative David Davis MP said that regulators investigating potential wrongdoing by banks in the wake of the financial crash outsourced this work to external lawyers hired by the banks themselves. Davis said these lawyers, acting principally for Barclays and UBS, 'did not examine crucial documents', including the emails of senior executives. This kick-started what he called the 'scapegoating' of low-ranking bankers by prosecutors, courts, directors and executives, with Barclays sacking employees further down the chain and cutting off any legal support. 'While the real villains got off scot-free, the scapegoats, including some whistleblowers, faced coercion and injustice. Their lives were destroyed by a totally inadequate regulatory and judicial system. In British courts, critical evidence was concealed. In America, the [Department of Justice] used tactics that amounted to judicial blackmail.'

The Libor scandal came to light in 2010 when it was reported that bankers at major financial institutions had colluded to manipulate the London interbank offered rate, otherwise known as Libor. The rate was used to set the interest at which banks borrowed money from each other and as a reference for financial instruments including commercial loans, mortgages and student loans. Speaking in the Commons on Tuesday 23rd May, Davis cited a recorded conversation between two London employees of Barclays: Peter Johnson, responsible for Libor submissions, and his manager Mark Dearlove. Dearlove was recorded telling Johnson there had been 'seri-

ous pressure from the UK government and the Bank of England about pushing our Libors lower', but Davis said those responsible for this 'lowballing' were not pursued by prosecutors. He added: 'Not all faced the same treatment. Dearlove, for example, heavily supported by lawyers paid for by Barclays, pointed out that the instruction to lowball had come from the Bank of England and Whitehall. His case was immediately dropped like a dangerous hot potato.'

In contrast, former trader Tom Hayes was prosecuted and received a 14-year sentence, despite an 'abundance' of evidence which showed what he was doing was normal and was permitted by regulators and central banks. Davis said 37 people were prosecuted, 19 convicted and nine jailed 'simply for doing their jobs', adding: 'The theme repeated itself throughout the trials: important evidence was withheld, and the evidence offered came from non-experts or people who knew about or had condoned the behaviour.' Davis called for the Metropolitan Police to review the evidence to examine whether any perjury was committed, and for the Treasury select committee to open a new inquiry on the matter.

Gypsy, Roma and Travellers Suffer 'Persistent' Discrimination in UK

Haroon Siddique, Guardian: There is "troublingly persistent" levels of discrimination against Gypsy, Roma and Travellers (GRT) in the UK, an expert group from Europe's leading human rights body has found. The Council of Europe committee said the GRT community suffer "shocking" amounts of bullying in the education system, prejudiced reporting in the media and threats to their legal status and rights, including as a result of recent legislative changes.

In an opinion, published on Thursday 25th May, it says: "The definition of 'Gypsy' for planning purposes excludes those who have permanently ceased travelling. This means that ethnic Gypsy and Travellers may be denied their status as a 'Gypsy' [sic]. "There is also a systematic shortage of sites resulting either from local authority unwillingness, opposition from local residents, and this new definition reducing the number of sites required in needs assessments. "Moreover, the authorities have criminalised trespass with a vehicle in the Police, Crime, Sentencing and Courts Act (PCSCA). This act appears to the minority as a criminalisation of the option of last resort of Gypsies and Travellers in England, and it is difficult for the minority itself to discern the difference between that and forced assimilation. The fear this act has sparked among the minority is profound."

As well as the PCSCA, the advisory committee on the Framework Convention for the Protection of National Minorities says other legislative changes and proposals raised concerns including the Nationality and Borders Act, which allows for citizenship to be stripped without notice, and threats to the Human Rights Act. The committee also noted strong increases in hate crime targeting other minorities, "notably the Jewish and Muslim communities", and called for greater support for linguistic minorities including Cornish. Its recommendations included Cornish being on the national curriculum and adequate funding being made available to Cornish organisations providing minority language education, teacher training or developing educational materials in the language. It also said there should be a comprehensive strategy for England and Northern Ireland to tackle "antigypsyism" to "combat the widely held prejudices against this minority". The committee said the pandemic, rising costs of living and the political climate – including the use of "human rights for party-political ends" – had seriously affected societal cohesion and human rights. But it praised targeted support for minorities in the Covid-19 vaccination drive, based on mortality inequalities. The UK – a founder member of the Council of Europe, which oversees the European court of human rights – ratified the Framework Convention for the Protection of National Minorities which is legally binding under international law, in 1998. The last UK opinion was published in 2017. The government has been approached for comment.

Three Black Men in UK say 'Institutional Racism' Influenced Murder Convictions

David Conn, Guardian: Lawyers for three black men convicted as teenagers of a 2016 murder in Manchester will apply for their convictions to be formally reviewed, arguing they resulted from institutional racism by the police, prosecution and judge. The mothers of the three men – Durrell Goodall, Reano Walters and Nathaniel "Jay" Williams – will travel to Birmingham to personally deliver their sons' 180-page application to the Criminal Cases Review Commission (CCRC).

Goodall, Walters and Williams were prosecuted with nine other boys and young men after the murder of Abdul Hafidah, 18, in the inner city area of Moss Side. Only one teenager, Devonte Cantrill, 19, committed the fatal stabbing of Hafidah, but all the defendants were accused of being in a violent gang called Active Only (AO). Seven were convicted of murder and four of manslaughter, under the controversial "joint enterprise" law, and sentenced by the judge, Sir Peter Openshaw, to a collective minimum in prison of 168 years. One older man, who had been accused of being the ringleader, was acquitted.

The application to the CCRC, prepared by Keir Monteith KC and Darrell Ennis-Gayle of solicitors Hodge Jones & Allen after two years compiling new evidence, argues "there was no violent criminal gang by the name of AO", and that the convictions are a "gross miscarriage of justice". Monteith said the convictions represented a "collective organisation failure" throughout the investigation, prosecution and trial process. "And at the core of that collective failure is institutional racism," he said.

Lucy Powell, the shadow culture secretary and Labour MP for Manchester Central, which includes Moss Side, supports the application, and has criticised the "gang narrative" as "racially discriminatory". Joint enterprise is a legal mechanism particularly applied by the Crown Prosecution Service to violence by alleged gangs. It holds all participants in a violent incident, however minor their individual actions, equally guilty if they are found to have intentionally "encouraged and assisted" a person to commit the most serious violence. A series of reviews and academic research has found that black boys and young men are disproportionately portrayed as being in gangs, and there is racial discrimination in the legal system. In February the CPS agreed, after a legal challenge by Liberty and the campaign group Joint Enterprise Not Guilty by Association (Jengba), to monitor joint enterprise prosecutions for racial bias.

In the Moss Side prosecution, a Greater Manchester police (GMP) officer, DC Bryan Deighton, gave evidence that the defendants were in the AO gang, with references to the notorious Los Angeles Bloods and Crips gangs, and criminal gangs in Manchester more than two decades earlier. A rap video, produced and uploaded to YouTube and social media in 2015, in which some of the defendants participated, was portrayed, and referred to by Openshaw, as a "gang video". At sentencing, Openshaw said he found "as a fact that each convicted defendant was a member of the … AO gang, or at least was affiliated to it", principally due to some having "AO signs or symbols on their mobile telephones". However, no criminal activity such as drug dealing was alleged to have been carried out by the gang, five of the 11 convicted had no criminal records, and Openshaw said three other teenagers' minor convictions were not relevant. Most were studying at college and had good character references. They and their families have consistently argued that they were not in a gang, and did not intend that Hafidah be killed.

The CCRC application presents evidence that, as reported by the Guardian in 2021, the rap music for the alleged gang video was recorded at a local youth centre, Powerhouse, which was publicly funded – including by Manchester city council – and that GMP supported initiatives there. Young people, including some of the defendants, took part in activities at Powerhouse and were encouraged to make rap music as a constructive activity.

Enforced Isolation Driving Mental Health Crisis at Brook House IRC

Jack Sheard, Justice Gap: A new investigation has revealed appalling treatment taking place at the scandal-hit Brook House immigration removal centre highlighting the impact on detainees' mental health. The report by Neha Gohill of the The News Movement reveals enforced isolation, poor healthcare and detainees driven to suicide at the removal centre which is already the subject of a public inquiry as reported on The Justice Gap. New interviews with current and former detainees reveal a catalogue of concerns including individuals have been kept in detention for up to three years described by the Inspector of Prisons as 'unacceptably long'. According to the report, the impact on detainees' mental health is considerable with centre missing as much as 70% of its mental health team. 'The overriding concern I have as a doctor about Brook House is how harmful to health and how harmful to mental health it is,' commented Dr Rachel Bingham, who has been providing medical support to detainees at Brook House and elsewhere for more than 10 years. 'It's fair to say most of our clients have observed other people very distressed, very agitated, severe mental health problems, self harm, suicide attempts, so that kind of feeds into an escalating distress for many of our clients.' It was claimed that those who complain are threatened with isolation for days at a time. The News Movement identified at least four cases where individuals were kept in isolation for three or more days; one was left in isolation for six days, even when suffering from medical problems and suicidal thoughts.

Government Statement: Legal Aid Means Test Review

Changes the Government will be making include: Increasing income and capital thresholds for legal aid eligibility, so they better reflect essential living costs and different household compositions. This means that 3.5 million more people will be eligible for criminal legal aid in the magistrates court and 2.5 million more people will be eligible for civil legal aid.

Introducing a £500 per month earnings threshold for applicants in receipt of universal credit. If exceeded, applicants will need to complete a full income assessment in the same manner as applicants not in receipt of benefits. This replaces the interim position adopted in 2013, when universal credit roll-out began. This policy is designed to deliver fair eligibility according to applicants' means, regardless of the source of those means.

Removing the upper income threshold for legal aid at the Crown court, meaning that all Crown court defendants will be eligible for legal aid. Those on higher incomes will be asked to pay more towards to their legal aid, ensuring taxpayer resources are directed at those most in need. Excluding assets such as the family home from the means test where they are the subject matter of the case or where coercive control has denied applicants use of their shared marital assets, making it easier for domestic abuse victims to access legal aid.

Removing the means test for three areas of civil legal aid: civil representation for under-18s, civil representation for parents or those with parental responsibility facing the withdrawal of life-sustaining treatment from their child, and legal help for inquests involving a potential breach of rights under the ECHR (within the meaning of the Human Rights Act 1998) or where there is likely to be a significant wider public interest in the individual being represented at the inquest. The MTR will be implemented in phases. Phase 1 will deliver changes to non-means tested areas. The rest of the new civil means test will be implemented in phase 2, followed by the new criminal means tests in phases 3 and 4. Changes to the regulations will be laid in 2023-24, coming into force in 2025. This timeframe allows digital build and testing of the new assessments by the legal aid agency and legal aid providers. This has been an open and collaborative review and we are grateful for the invaluable contribution of a wide range of interested parties throughout the consultation period and during the course of the review.

Parole Board Moves to 'Open Prison' 14 accepted 76 rejected

From January to March 2023, the Secretary of State considered 90 recommendations by the Parole Board for a prisoner to be moved to open prison. The Secretary of State accepted 14 recommendations and rejected 76.

"Never ask a question of a Minister unless you know the answer already", and I read with interest the Minister's response to the noble Lord, Lord Blunkett, on 27 April. The figure that the noble and learned Lord has quoted is less than one in six referrals from the Parole Board, and I cannot get my head around how small it is. The Minister outlines the criteria to be taken into consideration, but the Parole Board making the recommendation will surely know what criteria the Government are going on. What is the point in it keeping on making referrals if the Secretary of State is not going to listen?

Lord Bellamy: I think I should clarify that this particular advisory function of the Parole Board has no statutory basis. It dates historically to the time when the Parole Board was part of the Home Office. The Parole Board has no operational responsibility for the safety and security of the open estate, nor for the rehabilitation of prisoners, nor for the categorisation of which prisoners are suitable for which prisons. In June 2022, the Secretary of State adopted new criteria for the transfer of prisoners to open prisons and unfortunately, in the Secretary of State's view, those criteria have not been fully followed by the Parole Board's advice. Those decisions by the Secretary of State can of course be challenged in the courts.

Prisons: "Warehouses of Despair, Danger and Degradation"

Centre for Crime and Justice Studies: Prisons policy in England and Wales has taken a "catastrophic direction" since 2010, with prisons at risk of becoming "little more than warehouses of despair, danger and degradation". Not my words, but those of Andrea Albutt, President of the Prison Governors Association, speaking earlier this week to MPs on the All-Party Parliamentary Group on Penal Affairs. It was a stark assessment by someone with over thirty years experience working in prisons. Her speech was in part a history lesson, as she went through the various stages of 'reform' in the prison system since the formation of the Conservative – Liberal Democrat coalition government in 2010.

The incoming Justice Secretary Ken Clarke, she argued, had inherited a prison system that, while far from perfect, was reasonably stable. The prison competition strategy Clarke launched in 2011 was "the real start of the race to the bottom", as unrealistic cuts were sought. Clarke's successor, Chris Grayling, introduced a benchmarking exercise that sought further to drive down costs. The result was a "demonstrable deterioration of outcomes, particularly safety". At the same time, the disastrous decision to compete facilities management resulted in a dilapidated estate in which "large parts...were unfit for human habitation but remained in use".

Grayling's successor, Michael Gove, tried to apply the logic of academy schools to prisons, with predictable results. His successor, Liz Truss, published plans to reduce bureaucracy and empower prison governors. Yet "rather than feeling empowered, Governors were feeling under more scrutiny than ever". And so it continued, through a further six Justice Secretaries between 2017 and 2023 (David Lidington, David Gauke, Robert Buckland, Dominic Raab, Brandon Lewis, Dominic Raab again) ending with the current incumbent, Alex Chalk.

"Since 2010", Andrea Albutt said, "11 Justice Secretaries (one holding the post twice) and 13 Ministers (one holding the post twice) have, through political buffeting and interference achieved nothing but decline in the function of prisons". It was a pretty devastating critique,

and one that left the MPs and Peers present straining to offer a response adequate to the scale of the problem she identified. The dreadful state of our prison system, as well as particular injustices like the dreadful Imprisonment for Public Protection sentence, are the result of decisions by successive governments and Justice Secretaries, and by those parliamentarians that passed disastrous legislation and failed to hold Ministers to account. But politicians are also part of the solution. Only they can pass legislation and change policy for the better. Building support, inside and outside parliament and the corridors of power, for a sustained change in policy direction, remains a vital task.

High Court Declares Secret Home Office Detention Policy Unlawful

The High Court has ruled that a secret Government policy, which the Home Secretary used to repeatedly prevent two mothers and their children, lawful residents of the UK, from re-entering the UK, is unlawful. The existence of the secret policy was revealed during the legal proceedings through evidence provided through evidence gathered by charities and lawyers. The evidence presented showed a practice at the border of detaining individuals with valid leave to remain in the UK and questioning them about their NHS debt, even though the debt does not affect their right to re-enter the country. Despite numerous requests during months of litigation, the Home Secretary refused to confirm or publish the policy. In a detailed judgment issued on May 26, 2023, Mr Justice Chamberlain determined that the Home Secretary had unjustly imprisoned the women and their young children without any valid justification. Furthermore, it was found that the Home Secretary had failed in her duty to consider the impact of the policy on protected groups under the Equality Act 2010, particularly women who are disproportionately affected by NHS charges. The Home Office disclosed the policy during the litigation process but did not acknowledge that it should have been made public. By the time of the hearing, the Home Office had retracted the controversial policy, and it is currently undergoing revision.

Law Commission Makes Proposals to Better Protect Rape Victims From Prejudice

Alexandra Thacker, Justice Gap: The Law Commission has called for tighter restrictions on the use of rape complainants' sexual histories and therapy notes as evidence in rape cases. The Commission urged for more to be done to prevent rape myths from influencing juries at trial. The Commission described rape myths as 'genuine and sincere beliefs that are factually incorrect and often derived from stereotypes.' These include beliefs that victims will always resist rape, either verbally or physically, and that rape always involves physical force. In reality, many victims freeze through fear or shock during abuse, and rapists may threaten or manipulate their victims instead of using physical force.

To counter the influence of rape myths, the Commission has proposed powers be granted to judges to block evidence about complainants' sexual history where it may be used to suggest complainants were more likely to have consented to sex with their alleged attacker. This proposal is based on the model used in Canada, where evidence of this kind is only permitted where it is of genuine importance to the case and does not risk prejudice.

Additionally, with the aim of making complainants feel more comfortable during trial, the Commission has proposed that complainants should be automatically entitled to measures that will help make giving evidence an easier experience, such as the ability to give evidence in private, with an exemption that allows press attendance. The report also considers whether expert evidence should be used in trials to explain to jurors 'the complex physical and psychological responses to sexual violence', and seeks views on this.

The proposals have generally been well-received, though criticisms remain. Harriet Bland, lawyer at the Centre for Women's Justice, described the report as 'really positive', but raised concerns that it does not go far enough in restricting police and Crown Prosecution Services' access to victims' therapy records. The director of the End Violence Against Women Coalition, Andrea Simon, has further warned of the importance for the government to take the report seriously, saying, 'this cannot just be another review that goes nowhere.' Bland suggests that the Victims Bill, which is currently going through Parliament, would make for 'an excellent opportunity to legislate on these issues.' As the Law Commission seeks further responses to its consultation paper, it remains to be seen how such proposals can address the country's low rates for reporting and prosecuting sexual offences.

High Court Declares Secret Home Office Detention Policy Unlawful

The High Court has ruled that a secret Government policy, which the Home Secretary used to repeatedly prevent two mothers and their children, lawful residents of the UK, from re-entering the UK, is unlawful. The existence of the secret policy was revealed during the legal proceedings through evidence provided through evidence gathered by charities and lawyers. The evidence presented showed a practice at the border of detaining individuals with valid leave to remain in the UK and questioning them about their NHS debt, even though the debt does not affect their right to re-enter the country. Despite numerous requests during months of litigation, the Home Secretary refused to confirm or publish the policy. In a detailed judgment issued on May 26, 2023, Mr Justice Chamberlain determined that the Home Secretary had unjustly imprisoned the women and their young children without any valid justification. Furthermore, it was found that the Home Secretary had failed in her duty to consider the impact of the policy on protected groups under the Equality Act 2010, particularly women who are disproportionately affected by NHS charges. The Home Office disclosed the policy during the litigation process but did not acknowledge that it should have been made public. By the time of the hearing, the Home Office had retracted the controversial policy, and it is currently undergoing revision.

IRR: Calendar of Racism and Resistance (9 – 23 May 2023)

Policing I Prisons I Criminal Justice System

11 May: In Germany, the Ombudsman and police commissioner for Berlin says he is unable to carry out his duties properly because procedures forbid him to access investigation files concerning complaints against the police, including witness statements or autopsy reports. (Taz, 11 May 2023)

11 May: The European Parliament votes to ban live facial recognition in public places, indiscriminate scraping of data from social media or CCTV to create facial recognition databases, emotion recognition and predictive policing systems based on profiling. There will be another vote next month. (Research Live, 12 May 2023)

12 May: A month after a man fell to his death in Peckham, south-east London, after being Tasered, the Independent Office for Police Conduct (IOPC) announces that two police officers are under criminal investigation for gross negligence manslaughter, with one also being investigated for unlawful act manslaughter. (IOPC, 12 May 2023)

12 May: A police officer is acquitted at Southwark Crown Court of unlawfully inflicting grievous bodily harm on Jordan Walker-Brown, who was left paralysed after the officer Tasered him in May 2020, in Haringey, London. (Guardian, 12 May 2023)

12 May: Two Metropolitan police officers are dismissed without notice for punching and

kicking a 14-year-old black boy during his arrest in Finsbury Park in April 2021 and lying about the incident in their statements immediately afterwards. (Independent, 12 May 2023)

12 May: A court in the Czech Republic releases on parole, two-thirds into their sentences, two neo-Nazis convicted of the 2009 firebomb attack on a Romani family that left toddler Natálka Kudrikova with 80% burns. The family express shock. (ERRC, May 2023)

17 May: A West Mercia police officer is sacked for sending racist, homophobic and inappropriate memes and content on his mobile phone. (BBC News, 17 May 2023)

17 May: As ministers call for live facial recognition technology to be 'embedded' in everyday policing, South Wales police announce that LFR will be used in Cardiff city centre during a Beyoncé concert. (Guardian, 17 May 2023)

19 May: The National Crime Agency denies reports that it has a target list of lawyers assisting traffickers, who ministers claim are helping Albanian organised crime gangs abuse asylum laws. (Law Society Gazette, 19 May 2023; Guardian, 18 May 2023)

20 May: The Afrobeat artist Fuse ODG releases a video of an incident in February where he was dragged out of his car by police who told him he smelled of cannabis. He says he spent six hours in A&E from over-tight handcuffs, suffered for weeks from neck and back pain, and has made a formal complaint. (BBC News, 20 May 2023)

22 May: A female police officer is charged with three counts of racially aggravated battery and one count of racially aggravated threatening behaviour following an off-duty incident in Oxford on 17 December 2022. (ITV News, 22 May 2023)

Japan's "Hostage Justice System"

You are innocent until proven guilty in a court of law. But not in Japan. As soon as you're a suspect in detention – long before any trial even begins – the authorities essentially assume you're guilty and punish you by undermining your most basic rights. They strip you of the right to remain silent, they question you without your lawyer present, and they coerce you to confess by denying you bail. They try to wear you down with repeated arrests and prolonged periods under constant surveillance in police stations.

In Japan, this is known as the "hostage justice system" (hitojichi-shiho). Suspects are frequently detained prior to trial for ages — sometimes for months or even more than a year — to obtain their confessions. It's so bad, Japanese has a word for the false accusations that lead to a person becoming a victim of the justice system: enzai. A magazine documenting miscarriages of justice in Japan describes enzai bluntly: "Even though you're innocent, you get treated as a criminal." The abusive system results in lives and families being torn apart.

Such serious problems with Japan's criminal justice process may come as a surprise to many outside the country, where Japan generally has a good reputation as a rights-respecting democracy. But many inside Japan have long been pushing for wide-ranging reforms to end these abuses. "You are basically held hostage until you give the prosecutors what they want," says Nobuo Gohara, a former prosecutor. This is not how a criminal justice system should work in a healthy society."

Japan's Code of Criminal Procedure allows detaining suspects for up to 23 days before indictment by a judge. The authorities interpret the procedure code to allow interrogations throughout this period. Investigators press suspects to answer questions and confess to the alleged crimes even if they invoke the right to remain silent. Many suspects are detained in cells in police stations under constant police surveillance, without contact with family members when a contact prohibition order is issued.

Judges routinely allow investigators' requests for rearrest and prolonged detention. The 23-day detention limit provides no real restriction on pretrial detention, as investigators can use detention for separate, minor crimes or split up charges based on the same set of facts as an excuse to rearrest and detain suspects repeatedly. Detainees are not allowed to request bail while in preindictment detention. Even when the detainee is indicted and finally allowed to request bail, those who have not confessed or who have remained silent often have a harder time persuading a judge to approve their bail request. Pretrial detention can last for months or even years. The International Covenant on Civil and Political Rights, to which Japan is a party, states that anyone arrested or detained on a criminal charge must be "promptly" charged before a court. The United Nations Human Rights Committee, the international expert body that provides authoritative analysis of the covenant, has said that 48 hours is ordinarily sufficient time to bring someone before a judge and that any longer delay "must remain absolutely exceptional and be justified under the circumstances." Furthermore, under the covenant, as a general rule people should not be detained prior to trial.

Man Spared Jail After Six-Year Delay in Case Coming to Court

Charlie Moloney, Law Gazette' :A man who said he was 'catfished' on a sugar daddy website by a 14-year-old girl has been spared jail after a six-year delay to his case. Darryl Foster had signed up to Sugar Daddy Meet and started talking to the account of a girl who he initially thought was 18, the court heard. The 52-year-old later received a message from the account which said it was from the girl's father, who had confiscated the victim's phone and grounded her after discovering her account.

Rebecca Erkan-Bax, prosecuting, said: 'Mr Foster was alerted to the fact that the girl was 14 by her father. The father informed Mr Foster that if he continued to communicate he would tell the police.' Despite the warning, Foster continued messaging the girl's account but his 'tone' changed, the court heard, and he started suggesting they meet at places a young girl might like, such as Thorpe Park.

Despite this he had denied knowing the girl was 14 when he carried out the offence in May 2017, but was only brought to court to answer the charge in July 2020, a judge heard. Foster, from Marlborough in Wiltshire, was convicted after trial and appeared at Reading Crown Court. Edward Culver, defending, said: 'That delay does not seem one that was explained by the pandemic. He has had this hanging over his head for six years, largely by matters beyond his control.'udge Emma Nott accepted Foster did not target underage girls - he was on a website where he thought he was dealing with 18-25-year-olds - but did not see it as a 'red flag' when he happened upon one. She also said it was a concern that Foster did not accept responsibility for his actions. 'That was the theme throughout his evidence, that he had been catfished, it was not his fault.' The victim and her friend had both attended court during the trial and revealed they had joined the website together to try and make money.

Judge Nott said: 'It is clear they were two immature 14-year-olds who thought it would be a bit of a wheeze if they could perhaps do something short of sex to get a bit of money. It was clear that they were out of their depth. One can see from the messages how immature she was.' The judge said the harm in the case was low because the account was being operated by the girl's father at the time Foster was sending sexual messages. Judge Emma Nott told him: 'These proceedings in and of themselves have put a stop to any risk you pose because since your arrest you have not engaged in any further activity towards under age girls. 'Because of the delay in this case, because I put this down to recklessness perhaps in drink and because I am certain you have learned your lesson and you do not pose a risk to children, I can impose a sentence other than a custodial sentence.' The judge sentenced Foster to an 18-month community order, including 40 rehabilitation activity requirement days and ordered him to pay £2,800 costs.

"Hugh Callaghan One of the "Birmingham Six" Dies Aged 93

Mr Callaghan, who was originally from Belfast, died in a London hospital on Saturday after being admitted with heart trouble. One of the 'Birmingham Six' who was wrongly jailed over two IRA bombings in 1974, has died aged 93. Twenty-one people died in the Mulberry Bush and Tavern in the Town pub blasts in Birmingham on 21 November 1974. Six men were jailed for life for the bombings but freed in in 1991 after their convictions were ruled unsafe. Mr Callaghan moved from Belfast to Birmingham in the 1960s, but later settled in London with his partner Adeline Masterson. He became involved in Irish organisations in Britain after his release, and was a member of the Irish Pensioners' Choir. The other members of the Birmingham Six were Patrick Hill, Gerry Hunter, Johnny Walker, Billy Power and Richard McIlkenny. Mr McIlkenny died in 2006 aged 73. Each of the six were, sentenced to life imprisonment in 1975 following their false convictions for the 1974 Birmingham pub bombings. Their convictions were declared unsafe and unsatisfactory and quashed by the Court of Appeal on 14 March 1991. The six men were later awarded financial compensation ranging from £840,000 to £1.2 million.

Why the Birmingham Six's Story Must Not be Forgotten

Rowan Moore, Guardian: It remains one of the gravest miscarriages of justice in British history. Hugh Callaghan, one of those wrongly convicted, talks about how the ordeal has scarred him. In 1974, knowing that he was, as he puts it, "a nervous individual" and afraid of dogs, the police put Alsatians into Hugh Callaghan's cell. They ordered them to attack him before restraining them at the last minute. "I still have nightmares about it," he says, now 92, sitting in the peaceful London home he shares with his partner, Adeline. There have been times, she says, when he has woken up three times a night, screaming. If he sees someone with an Alsatian, he crosses the road to avoid it.

This is not a tale from Lukashenko's Belarus but from Birmingham, England, and is one of many gruesome details of the case of the Birmingham Six, in which six men spent 16 years in prison for a crime of which they were entirely innocent. It is shocking not only for this fact but also for the brutal methods of the police, and their decades-long efforts, with the help of some judges and sections of the media, to insist – in the face of mounting evidence to the contrary – on the men's guilt.

If you are British, it shakes any faith you might have in the country's institutions of law and order, in which you might well have been brought up to believe. If you are under 45, you may know little of one of the worst miscarriages of justice of modern times. If you are older you may remember footage of their release, and media coverage of the case, but your grasp of the details might be hazy. You might, thanks to the misinformation of the police and some of the press, harbour some vague suspicion that they were after all a little bit guilty.

For these reasons, it is important that the testimonies of Callaghan and the other victims continue to be heard. And, lest the story seemed to be over, the police recently applied for a court order against Chris Mullin, the journalist and later MP whose investigations eventually led to the acquittal of the six. The order was intended to force him to reveal the identity of one of the actual bombers, whom Mullin had interviewed on the promise of anonymity. He refused, arguing that protection of sources was essential to journalism, and without which he could not have uncovered the truth about the six. In 1974, Callaghan was one of many who had moved from his native Belfast to the British mainland, in search of better prospects of work. He led an ordinary life, working as a welder in a factory that made lighting. He liked going to the pub and watching Aston Villa. He lived with his wife and daughter in a small terraced council house.

Judge Discharges Extradition Request of Mother To Hungary

Prioritising best interests of children and Article 8 rights: On 1 June 2023, DJ Clews discharged KS in a Hungarian extradition request. KS is the mother and sole carer to three children. Her extradition was sought by Hungary for a conviction in absence relating to fraudulent conduct some years ago. An independent report by local Social Services concluded that if her extradition went ahead, her three children would suffer significant harm – and that there were no other carers available to look after the children in this country in her absence. Accordingly, and for other reasons, the Judge concluded that extradition would be a disproportionate interference with KS's Article 8 rights to a private and family life, taking particular account of the best interests of her children.

Government Response to IICSA Recommendations "Bitterly Disappointing"

Alison Millar, Leigh Day Solicitors: *"Accepting the Need to Act is Not the Same as Acting"* and there is an urgent need to get on with the recommendations in the 'Independent Inquiry into Child Sexual Abuse' (IICSA) concluding report, before more children are harmed who could have been protected and more survivors of abuse die without redress. Lawyers who have represented hundreds of survivors of child sexual abuse have described the government's response to the recommendations of the IICSA as bitterly disappointing. "The Inquiry has consistently said that its recommendations need to be implemented as a package to be effective to tackle the national epidemic of child sexual abuse (CSA).

"I know through my experience of representing survivors that the effects of abuse can be absolutely devastating for individuals – and the costs of dealing with those impose a huge burden on society each year through resulting mental and physical health needs, impact on relationships, blighted education and loss of earnings. Action now is needed, not more talking. IICSA is also right to be disappointed that the Government has rejected some of its recommendations – such as the recommendation to ban the use of "pain compliance techniques" on children in custody, which IICSA rightly concluded were a form of child abuse. There is also a really disheartening lack of a commitment to support for children and adult survivors; this is in my view is a betrayal of the brave survivors who gave evidence to IICSA public hearings and the Truth Project."

The Government announced its response to the 20 recommendations put forward by IICSA on Monday 22 May. Home Secretary Suella Braverman announced that there would be a new redress scheme for victims and survivors and there will be a consultation with victims and the charities representing them to find out who the scheme should support and how. Ms Braverman went on to say that the Government had agreed there is a "need to act" on 19 of the 20 recommendations. The announcement was met by criticism from groups who support victims and survivors of child sexual abuse including a group of 64 organisations and individuals who represent the sectors that engage and protect children, known as the IICSA Change Makers. The group said in a joint statement: "It is disappointing that a significant number of the cross-sector recommendations that could have led to real change have been curbed by the Government, which is either narrowing them down or assuming that existing mechanisms already address the need…We need to see a determination from Government to prevent and tackle the ongoing situation where child victims of sexual abuse are left traumatised and adult survivors are left without the appropriate support to rebuild their lives." The group also called for the appointment of a Minister for Children who could act as a champion for children and ensure young people's voices are heard at the most senior level.