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

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For John Mcevoy £10,000 Damages for Unreasenable Delay

[1] In my judgment on the application for judicial review, neutral citation [2022] NIKB 10, I found in favour of the applicant and held that the respondent had failed to carry out an article 2 and/or article 3 compliant investigation into the attack at the Thierafurth Inn, Kilcoo, on 19 November 1992. This conclusion arose since I found that the article 2 and 3 obligations had been revived in line with the principles set out in Brecknell v UK [2008] 46 EHRR 42, as explained by the Supreme Court in Re Finucane [2019] UKSC 7 and Re McQuillan [2021] UKSC 55.

[2] This judgment should be read in conjunction with my findings on the substantive issues.

[3] In my conclusion I stated at paragraph [52]:"In terms of relief, I am minded to make a declaration only since I am conscious that any mandatory order may result in other deserving investigations being denied or delayed. In light of the indication given by the respondent that a review is being carried out of the CSM in light of the requirements of article 2, declaratory relief ought to be an effective remedy for the breach which I have found. In any event, I will hear counsel on this issue, on the wording of any declaration and on the question of costs."

[4] The wording of a suitable declaration was agreed between the parties and the issue of costs disposed of. However, the applicant contends that damages are necessary to ensure just satisfaction for the respondent's breach of his human rights. The respondent says that there is no legal or factual basis for such an award in this case.

[5] he applicant places particular emphasis on the following findings in the primary judgment: (i) The horrific events of 19 November 1992 and the impact those have had on his life; (ii) The PONI report on the failings to disseminate intelligence information to investigators; (iii) The interview with the former police officer contained in the documentary film No Stone Unturned; (iv) The lack of any further investigation since these matters came to light in 2016 and 2017.

[6] The claim for damages is therefore based squarely on the delay on the part of the respondent in complying with its obligations under articles 2 and 3.

[7] Section 8 of the Human Rights Act 1998 ('HRA') provides: "(1) In relation to any act (or proposed act) of a public authority which the court finds is (or would be) unlawful, it may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate.

(2) But damages may be awarded only by a court which has power to award damages, or to order the payment of compensation, in civil proceedings.

(3) No award of damages is to be made unless, taking account of all the circumstances of the case, including- (a) Any other relief or remedy granted, or order made, in relation to the act in question (by that or any other court), and (b) The consequences of any decision (of that or any other court) in respect of that act, The court is satisfied that the award is necessary to afford just satisfaction to the person in whose favour it is made.

(4) In determining - (a) Whether to award damages, or (b) The amount of any award. The court must take into account the principles applied by the European Court of Human Rights in relation to the award of compensation under Article 41 of the Convention.

[8] In Greenfield v Secretary of State for the Home Department [2005] UKHL 14, Lord Bingham stated: "The routine treatment of a finding of violation as, in itself, just satisfaction

for the violation found reflects the point already made that the focus of the Convention is on the protection of human rights and not the award of compensation." [para 9]

[9] In Jordan v PSNI [2019] NICA 61, Morgan LCJ set out the legal principles in Greenfield as follows: "(i) Domestic courts when exercising their power to award damages under section 8 should not apply domestic scales of damages. (ii) Damages did not need ordinarily to be awarded to encourage high standards of compliance by member states since they are already bound in international law to perform their duties under the Convention in good faith. (iii) The court should be satisfied, taking account of all the circumstances of a particular case, that an award of damages is necessary to afford just satisfaction to the person in whose favour it is made and it follows that an award of damages should be just and appropriate. (iv) Section 8(4) of the HRA required a domestic court to take into account the principles applied by the ECHR under article 41 not only in determining whether to award damages but also in determining the amount of the award." [para 19]

[10] An award of damages in respect of breach of Convention rights does not therefore flow automatically. It must be necessary in order to afford just satisfaction to the victim. Furthermore, the claimant must show that he has suffered harm which was caused by the breach of right asserted. In Kingsley v UK (35605/97), the ECHR held: "The court will award financial compensation under Article 41 only where it is satisfied that the loss or damage complained of was actually caused by the violation it has found…" [para 40]

[11] As Lord Reed explained in Sturnham v Parole Board [2013] UKSC 23: "the Strasbourg court's approach to this issue reflects its limited fact-finding role…A domestic court is not however restricted in its fact-finding capabilities. In those circumstances, it is not in my view required by section 8 of the 1998 Act to apply a self-denying ordinance, but should establish the facts of the case in the usual way, and apply the normal domestic principle that the claimant has to establish on a balance of probabilities that he has suffered loss." [para 82]

[12] The applicant's evidence is that he has never fully recovered from the 1992 attack and suffers from post traumatic stress disorder. In terms of the impact of the delay in investigating, he states in his fourth affidavit: "The delay has been frustrating and upsetting and has continued to erode my confidence in the willingness by State bodies to ensure an effective investigation into the shooting and to hold to account those responsible…The delay risks our being deprived of the opportunity to ever establish what happened, or to obtain justice."

[13] The applicant also states his belief that those charged with responsibility for the investigation have demonstrated clear disrespect to him and the other survivors and he is horrified by the failure to act on the evidence since 2016.

[14] It is the applicant's case that there can be no principled distinction between his situation and that prevailing in Jordan wherein separate awards for compensation were made by the ECHR and the domestic courts in respect of distinct periods of delay in carrying out an article 2 compliant investigation.

[15] It is evident from Jordan that damages may be award for distress, anxiety and frustration caused by such delays. At first instance [2014] NIQB 71, Stephens J made a finding as follows:

[16] The Court of Appeal held: "In our view the frustration and distress caused by such conduct against a background of very lengthy delay made it just and appropriate to afford just satisfaction by way of damages." [para 30, supra]

[17] The instant case does not involve an investigation into the death of a next of kin, it involves an attack on the applicant himself. A fortiori, these considerations must apply to the impact of the want of any adequate investigation in such circumstances.

[18] In light of these authorities, the relevant Strasbourg jurisprudence in respect of com-

pensation under article 41, I have determined that an award of damages is necessary to afford just satisfaction to the applicant and that the applicant has established that he has suffered harm as a result of the violation of article 2 and/or 3.

[19] The ECHR caselaw provides little in the way of analytical guidance into the making of such awards of damages for delay. I note that, domestically, a sum of £5,000 was awarded in Jordan in respect of a culpable period of 14 months' delay. The family of Patrick Finucane was awarded £7,500 by consent in respect of a delay of some two years and a further £5,000 by Scoffield J in satisfaction of a claim of culpable delay of some 2½ years.

[20] I have concluded that, in addition to the findings in the primary judgment and the declaratory relief which he has obtained, an award of £10,000 damages under section 8 of the HRA is necessary in order to afford just satisfaction to the applicant.

A Depressing Picture - HM Chief Inspector of Prisons' Annual Report 2022–23

[Commenting on the findings of HM Chief Inspector of Prisons' Annual Report, Pia Sinha chief executive of the Prison Reform Trust said: "The chief inspector's annual report paints a depressing picture of too many prisoners spending too little time out of cell and engaged in purposeful activity, often housed in cramped and overcrowded accommodation which struggles to meet even basic standards of decency.

"Much of this can be blamed on national trends such as the pressures of a rising prison population, insufficient officer numbers, and a dilapidated estate suffering from decades of underinvestment. The high numbers of women suffering extreme mental health difficulties should be a wakeup call to the government to turbo charge the delivery of its female offenders strategy.

"But the chief inspector's report is far from being a catalogue of despair. It shows that prisons with strong leaders and ambitious plans to get prisoners engaged in rehabilitation were able to buck the national trend. More should be done to spread best practice and enable prisons to learn from each other."]

In the report itself: Mr Taylor outlines how despite the lifting of the final pandemic restrictions in May 2022, many prisons are still failing to return to pre-pandemic regimes which support prisoners' rehabilitation. Other key findings are:

there was too little time out of cell in most men's prisons, many of which were overcrowded and in poor condition

there were poor or not sufficiently good purposeful activity outcomes in all but one prison inspected; this was particularly concerning in men's category C prisons

not enough key work was being done with prisoners, largely due to staff shortages

the treatment of women in prison suffering from extreme mental health difficulties was not good enough

violence remained a significant issue in youth custody with the use of 'keep aparts' to manage high levels of conflict between groups

there were largely positive conditions in immigration removal centres, but serious underlying weaknesses at the Kent short-term holding facilities holding migrants

those held in court custody received reasonably good care.

Mr Taylor called for establishments to make sure that prisoners are given the help they need to move away from crime into more productive lives:

"Over the last year I have consistently raised concerns with governors, the prison service and ministers that prisoners who have not had sufficient opportunities to become involved

with education, training or work, and have spent their sentences languishing in their cells, are more likely to reoffend when they come out. While I recognise the challenges in reopening regimes and am not encouraging practice that would increase the risk of violence for either prisoners or staff, I have become increasingly frustrated by prisons whose future plans are so vague that it is hard to see when progress is going to be made."

He concluded: In the next year I hope to see a significant improvement in the amount of time prisoners are spending in purposeful activity. The best governors have showed us what is possible; it is time for others to follow."

California's First-In-Nation Reparations Taskforce Releases Final Report

Abené Clayton, Guardian: California's reparations taskforce released its final report with recommendations for how the state should atone for its history of racial violence and discrimination against Black residents on Thursday 29th June 2023. This document, which could serve as a national model for how governments can attempt to right the wrongs of the past, marks the end of a nearly three-year effort that began in the wake of George Floyd's murder and the ensuing reckoning around systemic racism and anti-Blackness in the US.

The nearly-1,100-page document includes detailed examples of historical discrimination against Black Californians that have persisted for more than a century and affect nearly all areas of life. The taskforce recommended that the state legislature make a formal apology to Black residents for "the atrocities committed by California state actors who promoted, facilitated, enforced, and permitted the institution of chattel slavery … incidents of slavery that form the systemic structures of discrimination", the report reads.

The report suggests more than 100 ways to repair the harm, including paying descendants of enslaved people for having suffered under racist actions such as over-policing and housing discrimination. "This book of truth will be a legacy, will be a testament to the full story," said Lisa Holder, a civil rights attorney and taskforce member. "Anyone who says that we are colorblind, that we have solved the problem of anti-Black ... racism, I challenge you to read this document." To reach these demands, taskforce members had to distill input from hundreds of experts and deliberate on who exactly would qualify for reparations and which areas of society, like housing and education, were the most pressing to address. Over more than two years, the nine-person team of civil rights leaders, attorneys, lawmakers and academics held 15 public meetings to gather information and hear expert testimony about California's history of discrimination.

Though California became a free state in 1850, 15 years before the emancipation proclamation was signed, it did not enact any laws to guarantee freedom for all. For over a decade, the state supreme court enforced the federal Fugitive Slave Act, which allowed for the capture and return of runaway enslaved people. In the decades after slavery was abolished, Black Californians experienced redlining, discriminatory housing practices and segregation in schools.

The reparations taskforce in June 2022 released a 500-page report that detailed 170 years of state-sanctioned discrimination and described "segregation, racial terror [and] harmful racist neglect" inflicted on Black people across the US and in California. "Atrocities in nearly every sector of civil society have inflicted harms, which cascade over a lifetime and compound over generations, resulting in the current wealth gap between Black and white Americans," the report concluded.

Since California codified its taskforce at the end of September 2020, cities including San Francisco, Boston and Detroit have established their own committees to explore what atoning for injustices suffered by Black Americans could look like. And while California was the first

state to form an official committee, the effort is part of a broader decades-long collective campaign by racial justice activists and scholars to get the US to not only acknowledge historic harms but put money behind righting wrongs.

Fervor around reparations has swelled to unprecedented levels since 2020. There is no universally agreed upon standard for what reparations for Black Americans should look like. Actions from direct cash payments to returning land to Black families are all being pursued in various capacities across the nation. California's taskforce also recommended that state legislators create a new agency, akin to the freedmen's bureau, which was established in 1865 to support formerly enslaved Black Americans. In this present context, the new agency would handle the implementation of the reparations plan, oversee direct payments and determine the eligibility of those seeking reparations. Taskforce members said their suggestions will pass legal muster because the benefits suggested would only go to descendants of enslaved people, not to all Black residents.

Injunctions – How Afraid Should We Be?

Good Law Project: 1. An injunction is a court order seeking to control the activity of a person or persons, usually to prevent them from doing something. An injunction can be brought against anyone involved in protest that has or threatens to trespass on private land or interfere with commercial activity or creates a public or private nuisance (amongst other 'wrongs' that are unlawful in a criminal or civil way). The person against whom the injunction is sought will be the 'Defendant' in the case. The organisation/company making the application is the 'Claimant'. The Defendant can be a named individual or can be 'persons unknown'. 'Persons unknown' means that the injunction applies to the world at large. Where someone is not actually involved in the protest or there is no evidence of them intending to commit the wrong alleged ('the tort') they can challenge their inclusion.

A court will consider whether granting the injunction is "just and convenient to do so," and that the order is proportionate in the circumstances. If the wrong has already been committed, then the Claimant will usually need to show that the defendant's actions are likely to be repeated or are continuing. If the injunction is sought in advance, to prevent anticipated unlawful behaviour, then the courts should take a more stringent approach. This puts a much greater burden on the Claimant to prove that there is a 'real and immediate' risk of the wrong being committed, that the Defendant is strongly likely to commit the wrong without the injunction, and the harm caused to the Claimant will be grave and irreparable if the activity is not restrained.

2. Interim or temporary injunctions can be granted swiftly.

The usual procedure is that a Claimant will apply for an injunction from the court on a temporary basis and then serve the papers on Defendants. The court will then hold a hearing within 7 days (the 'return date') to decide whether the temporary or final injunction should be granted. Sometimes the final decision will happen at a hearing some months later. Seeking to vary or discharge an injunction can be difficult, but it is not impossible.

3. Challenging an injunction is difficult but not impossible. Anyone named in the injunction proceedings has a right to vary (i.e., challenge the terms of the injunction) or discharge it (i.e., challenge the injunction entirely or their inclusion in it). If you want to challenge the injunction, then a Claimant may seek to add you as a Defendant (though see below at point 5.)

The Court must be satisfied that an injunction is a proportionate response to the alleged wrongs committed, in order to grant it. The threshold is not high however. In UK law, property rights will trump the right to protest in almost every case. Therefore, an injunction seeking to prevent trespass will be very hard to challenge. Injunctions that have sought to restrict the

right to protest away from the land in question have been successfully challenged. In addition, the terms of injunctions have been pared back or amended, and Defendants removed from proceedings through successful challenges.

4. Challenging an injunction, or its terms, or your inclusion in it is risky.

The usual rule in civil proceedings is that the loser pays the winner's reasonable and proportionate costs. In injunctions, if a court has agreed that a Claimant has had to go to court to stop 'wrongs' being committed, then the persons who caused that application to be made are usually ordered to pay the costs of it. This is regardless of whether the Defendant seeks to challenge the injunction or even engage in the process. Costs are usually divided by the Defendants named on the injunction, but not always. Putting it plainly, you can be made to pay costs even if you have not done anything wrong at all or resisted the grant of an injunction.

If you seek to challenge the injunction or its terms or your inclusion in it and cause the Claimant to incur further legal costs, especially if another hearing is required, your risk of being ordered to pay costs, and the amount of those costs will increase. Note that where the Claimant is seeking an injunction against Persons Unknown, then the court will usually require a further hearing in any event.

Legal Aid is not available to vary or discharge an injunction so if you are a Defendant (or apply to be a Defendant) then you will need to fund your own representation and plan for adverse costs. You can challenge the amount of a costs bill. As referred to above, costs must be both reasonably and proportionately incurred. While a court may consider it was reasonable to make the application and to spend time preparing witness statements and exhibits to support the argument that an injunction is necessary, they may not accept the rate that the lawyers charge or the number of hours spent. However, again, if you challenge the costs and are not successful in reducing them then you may be ordered to pay the costs of the billing process as well. Putting it plainly, even if the injunction should not be granted, it is risky and very expensive for a protestor to challenge it.

5. If you are not named but could be affected by the injunction, there may be a way to seek to vary or discharge it without as much cost risk as if you were a Defendant. The Civil Procedure Rules (40.9) say that "a person who is not a party but who is directly affected by a judgment or order may apply to have the judgment or order set aside or varied." This has been used successfully in a number of cases to make submissions and win concessions on the terms of an injunction. By making representations as an Interested Party you do not become a Defendant, and therefore the usual costs rules do not apply. A Claimant will need to apply to the Court to make the Interested Person a Defendant in order to seek to enforce costs against them. Or the Court can use its powers under section 51 of the Senior Courts Act 1981 to order costs against a non-party, however, this is supposed to apply only where the non-party is actually the controlling party in the litigation. It has not been tested in the protest arena (to our knowledge), and in any event the non-party has to be notified and given an opportunity to make representations (CPR 46.2)

Where the Interested Person has been successful in amending the terms of the injunction or providing submissions that have assisted the court in considering the injunction then there is far less of an argument for enforcing costs against that person. This does not remove the need to fund your own lawyers, however.

6. Other ways of seeking to avoid the costs of injunction proceedings.

It is sometimes possible to agree to be bound by an undertaking to the court that you will not commit the 'wrong' that the injunction is seeking to prevent, and in those circumstances,

Claimants usually are willing to not pursue their costs, or at least restrict the costs sought. Early engagement with the Claimant is usually vital to achieve that end.

Putting it plainly, if you agree to what the Claimant wants your costs should be lower.

7. Claimants can seek the cost of commercial losses associated with the action taken against them as part of injunction proceedings, and separate to their legal costs.

Claimants sometimes also add the losses they allege occurred from protests that have stopped work on sites for hours or days. These losses can be high and challenging them can be difficult and expensive as the usual rules on civil claims and legal fees apply.

8. If you are accused of breaching an injunction, what can you do?

Injunctions will almost always have a 'penal notice' attached, which sets out that breaching the injunction could result in 'committal proceedings', which are quasi criminal proceedings and could result in imprisonment or a fine. The criminal standard of proof applies. Some injunctions can give a power of arrest for alleged breach. Legal Aid is available in these circumstances, regardless of your income.

Spycops and the Imagined Enemy Within

Nicholas Reed Langen, Justice Gap: Maintaining the security of the state is one of the axiomatic responsibilities of the government. For Thomas Hobbes, writing amid the upheaval of the 17th century, it was peoples' search for security that led them to establish a government in the first place. Before this, people were wandering in what he called the 'state of nature', living in 'continuall feare, and danger of violent death'. Such fears could only be set aside if they accepted a public authority who was given responsibility from protecting them from lives that were 'solitary, poore, nasty, brutish, and short'.

Once established, however, the state takes on a mind of its own. It becomes concerned not only with protecting its citizens, but with protecting itself. To its citizens, the greatest and most obvious threat might come from outside its borders. Fears of marauding barbarians at the gates are primeval. But to the state, the more insidious and deadly threat comes from dissident citizens within. To combat this threat, governments created spymasters, who have played a vital role behind the scenes of the modern nation state from its very beginnings. Elizabeth I's grasp on the English crown was tightened by Francis Walsingham's machinations and deceptions, while John Thurloe rooted out the Royalist remnant in Britain and across Europe during Oliver Cromwell's Protectorate. Now we have a raft of acronymed security services with neatly and not-so-neatly delineated responsibilities, all oriented towards a single objective – keeping the state safe.

Each of these institutions, from GCHQ to the SIS, practises to deceive. But few deceive on a more fundamentally human level than those operatives who take on a false identity and assume a false life, going undercover to identify, examine, and – if necessary – eliminate threats from within. Undercover operatives take advantage of humanity's instinct to trust, cultivating relationships with people on the pretence of shared values and a shared ideology. If this is done well, the would-be revolutionaries are turtled, left vulnerable to the blade of the security services. Threats can be swiftly removed from the board, while operatives can sidle away from groups found to be harmless, with no one the wiser.

Doubtless this is how the Metropolitan Police's Special Demonstration Squad (SDS) viewed its role when it was established in 1968. Set up by Special Branch to assess and defuse the threat posed by groups protesting the Vietnam War, its web of intrigue grew, ensnaring dissident groups. With few in government even aware of its existence, it operated semi-

autonomously within the Metropolitan Police after senior officers decided that the threat posed by the extreme left justified their long-term penetration by undercover operatives. Over the coming decades, almost every major left-wing group was infiltrated, despite the fact that none of them ever posed a meaningful threat to the security of the state.

This is one of the key conclusions in the Undercover Policing Inquiry's report on its first 'tranche', which examined the activities of the SDS from 1968-82 and was published last week. Announced by Theresa May, then Home Secretary, in 2015, the inquiry was tasked with examining the operation of the SDS (whose existence only came to light in 2010 when an undercover officer's cover was blown). The anxieties of the British security establishment, worried about the threat to the democratic order, meant they wanted to have the 'best information possible about revolutionary and subversive organisations in our midst'. What they were less anxious about was the conduct of their officers, and if the danger posed by the left warranted such stringent surveillance. As Conrad Dixon, the Detective Chief Inspector responsible for the initial SDS operation, noted, the 'incompetence of the British left is notorious'.

For anyone who had hoped that it was the artifices of the British security state that stopped a red-hued revolution sweeping across the United Kingdom in the 20th century, the report makes for dismal reading. Trawling through it shows the vast majority of the radical left – then as now – to be hapless and naive ideologues, albeit pleasant ones. Various branches of the Vietnam Solidarity Campaign – which was initially established and funded by the philosopher Bertrand Russell – were infiltrated, only for the undercover officers to find that while 'notionally revolutionary, none of them was capable of achieving revolutionary aims by force'.

Another officer reported on a 'small and largely inactive anarchist group' in London's East End before moving on to joining the Tri-continental Committee, which had 'few members' but was still 'riven with internal dissent'. The report's discussion of how time was spent deciding to change the committee's name to the British Tri-continental Organisation brings to mind the People's Front of Judea sketch from Monty Python's Life of Brian. Members were too busy squabbling about whether they were the PFJ or the JPF, or accusing each other of being 'agents for foreign powers' to get around to the actual business of fomenting revolution.

Over the course of the SDS's operations, the fact that 'none of the undercover officers… received any training… beyond reading the reports of deployed officers and speaking to them' becomes self-evident. Left more often than not to their own devices, many of the operatives went beyond Dixon's original directives. They took up positions of responsibility, chaired meetings, and initiated activity. One officer was noted for being a 'willing and enthusiastic secretary', even if his fellow members thought he lacked understanding of the 'political views he claimed to espouse'.

More maliciously, some officers used identities of deceased children, a technique of unknown origin that led to at least one officer being exposed. Having infiltrated the 'Big Flame Ireland Commission', a 'relatively undogmatic socialist group', he was confronted by members over his identity as 'Rick Gibson'. He made his escape by telling them he was on the run from the police, but it was the reason behind his unmasking that makes it particularly noteworthy. This officer had pursued a romantic relationship under the guise of his cover identity, as had other officers.

Some of this infiltration, as the report acknowledges, had value, but the negligible gains did not 'begin to justify the infiltration of groups which posed no such threat'. According to the SDS's own precepts, two key elements were required for a group to warrant infiltration. The first was that they pursued 'activities which threaten the safety or well-being of the state' and the second, that they intended 'to overthrow parliamentary democracy by political, industrial

or violent means'. Few, if any of the groups infiltrated ever had anything more than '[minimal] potential for inciting or participating in public disorder'.

Defenders of the operations of the SDS would no doubt sympathise with the Commissioner of the Metropolitan Police for some of the period under scrutiny, Sir Robert Mark. In his biography, he observed that 'the simple truth is that fascists, communists, Troskyites, anarchists et al are committed to the overthrow of democracy and to the principle that the end justifies the means. Democracy must therefore protect itself by keeping a careful eye upon them'. Under this philosophy, while the conduct of some of the officers, like those who engaged in sexual relationships by deceit, was reprehensible, the driving motivation was not.

Sir Robert's statement fundamentally misunderstands what it means to be a democracy. The moment that the state is intruding into the private affairs of its citizens – even if those private affairs are concerned with establishing a new political order – it ceases to be a democracy and crosses into a surveillance state. Integral to the idea of a democratic order is that the democratic order is kept in place by popular will, not by force or by threat of force. A democratic state has a legitimate interest in maintaining the security of the state and the safety of its citizens, but this does not extent to interfering in attempts from would-be revolutionaries to change the status quo through peaceful means. Almost every instance documented in the inquiry's report is concerned with the latter, not the former. While it may be a cliche, the nature of the report is Orwellian, with the reports from the undercover officers containing 'extensive details about individuals- their political views, personality, working life, relationships with others, and family and private life'.

State conduct like this unravels the fabric that binds together civil society. It makes people fearful and suspicious. A democratic society where people first view others with a sceptical eye, and are on alert for interlopers and traitors is not a society. It is more like living in an Hobbesian state of nature, but one overseen by an armed force keeping the worst of the violence at bay. In order for democratic society to function and to persist, the reality of freedom of speech and freedom of thought is that some clandestine operations will always be necessary. But state intrusions into the most intimate parts of citizens' lives cannot be justified by a 'better safe than sorry'.

CCRC: Financial Trader's Convictions Referred Following Complex Review

A financial market trader's convictions have been referred to the Court of Appeal after a wide-ranging and complex review by the Criminal Cases Review Commission (CCRC). Tom Hayes was found guilty in 2015 of multiple charges of conspiracy to defraud by "rigging" the London Inter-Bank Offered Rate (LIBOR). He served five and a half years in a UK prison and was released in January 2021. Mr Hayes applied to the CCRC in 2017. His representatives provided CCRC with extensive submissions and several thousand pages of information, which were subject to detailed examination by CCRC staff. Further submissions were provided subsequently. In January 2022, a US Court judgment overturned the convictions of two other former traders convicted in similar circumstances. As a consequence, all charges against Mr Hayes in the USA were dropped. In light of these developments, the CCRC invited Mr Hayes' legal representatives to make additional submissions with regard to his convictions in the UK. The CCRC has concluded that there is a real possibility that the Court of Appeal will prefer the legal approach to the definition and operation of the LIBOR rules taken by the US Court and overturn Mr Hayes' conviction. CCRC Chairman Helen Pitcher OBE said: "We have concluded after a lengthy and complex investigation that the Court of Appeal should clarify whether the right legal approach was taken in Mr Hayes' case. We are committed to leaving no stone unturned in our comprehensive reviews of potential miscarriages of justice."

Court of Appeal Quashes Sentence of Imprisonment for Public Protection

The Court of Appeal granted a 13 year extension of time and allowed the appeal of PF against the sentence of Imprisonment for Public Protection imposed in 2010 for an offence of Aggravated burglary. PF had remained in prison since his sentence. Farrhat Arshad, representing PF, argued that a lesser sentence would have adequately protected the public and argued that the trial judge had erred in imposing the draconian sentence. The Court agreed and replaced the sentence with an Extended Sentence resulting in the appellant's immediate release.

16 Year Old Trafficking Victim Acquitted on Murder and Manslaughter

Doughty Street Chambers: Liam Walker KC and Rabah Kherbane represented a 16 year old victim of trafficking charged with murder. In preparation of the case, experts were instructed on trafficking and child criminal exploitation, including an ex-Superintendent in the police. Defence analysis of the case, including the assessment of substantial police and social services records established that RS was a victim of exploitation, and the deceased and a prosecution witness had attempted to 'set up' RS along with his co-defendant to stab them. Legal arguments were prepared on admissibility of covert surveillance material, untruthful witness evidence sought to be adduced by the prosecution, and the decision to prosecute victims of trafficking. Following two days of legal arguments, the Crown offered no evidence on charges of murder and manslaughter against RS.

'Immoral and Unfair': IPP Families Take Campaign to Parliament

Samantha Dulieu, Justice Gap: IPP sentences were abolished over a decade ago following a ruling in the European Court of Human Rights that they constituted 'arbitrary detention'. This kind of sentence stopped being handed down, but they were not scrapped retrospectively. Anyone still serving under an IPP at the time remained at the mercy of arbitrary and unjust release and recall conditions. Today, 2,916 people are still in prison serving an IPP sentence. 1,355 of these have never been released, even though 98% have served the minimum period the sentencing judge decided was fair punishment for their crime.

Campaigners highlighting the plight of people subjected to indeterminate IPP (Imprisonment for Public Protection) sentences took their campaign to Westminster. An exhibition staged by campaign group UNGRIPP (United Group for Reform of IPP) features photography, poetry and testimony from people serving the indefinite sentences. 'Indefinite imprisonment on an abolished sentence cannot be allowed to continue,' says UNGRIPP. 'We hope this exhibition sufficiently moves MPs to share what they have learnt, support any constituents affected and call for the Secretary of State for Justice to support key amendments that would restore justice.' The exhibition featured the photography of Andy Aitchison. Andy's photographs have featured in Proof magazine – and you can read an interview with Andy here. Sara's partner Rob was sentenced to 18 months in 2003 – he served over 11 years and has been recalled four times Along the bottom of the exhibition panels plume clouds of white dots, each one representing a prisoner still serving an IPP sentence, despite their being outlawed in 2013. Interspersed between the white dots, only visible once you start looking for them, then plain against the black background, are 90 red dots. Each one represents an IPP prisoner who has taken their own life.

Although first introduced by Labour Home Secretary Lord Blunkett in 2003, he now unequivocally condemns the regime as 'immoral and unfair'. Evidence shows people on IPP sentences are more likely to take their own lives than those on other tariffs, a statistic that is born out in this exhibition, and when you consider that many IPPs live under an indefinite license even after they are released. This means that they can be recalled to prison at any time, for even the most minor breach of their license conditions.

Reading the Riots: From Mark Duggan to Nahel Merzouk

IRR News: It's impossible to watch the events unfolding in France, in response to the shooting dead of Nahel Merzouk by police following a traffic stop, without remembering 4 August 2011, and the hard stop and police killing of Mark Duggan in Tottenham. It was the police's disastrous treatment of Mark Duggan's family and supporters at Tottenham police station on 6 August 2011 that provided the trigger for the most widespread social unrest seen in the UK for a generation. Likewise, it was the teargassing of the marche blanche organised by a Truth and Justice Committee and Nahel Merzouk's family, in Nanterre, west of Paris, that transformed initial disturbances into mass insurrection in France.

There are other similarities in terms of how criminal justice systems are responding, with fast-track justice. To date, over 3,000 people have been arrested in France (most under the age of 17 and 60% without previous convictions). Just like in the UK in 2011, French defence lawyers, given just 30 minutes to prepare, are having to contend with extended sittings and summary justice.There are, of course, differences in UK and French policing cultures, not least that French police, and not just specialist squads, carry firearms. The police's initial testimony that the shooting of Nahel was an act of legitimate self-defence under the 'refusal to comply' laws (which allow police to open fire on vehicles that evade traffic stops if there is a threat to life) was quickly destroyed when a video of his death was posted online, necessitating the immediate arrest of the police officer involved.

Another thing both countries do have in common is the backlash from rank-and-file police officers against any attempt to root out institutional racism or prosecute armed police officers who shoot dead Black men or men of Arab heritage. (See the case of Jermaine Baker, shot dead, as Tottenham Rights reminds us, by an officer from the same CO19 unit that killed Mark Duggan and Chris Kaba.) In the UK, police are not supposed to join a trade union, with police officers below the rank of superintendent represented by the Police Federation. In France, rank-and-file militancy is out in the open. In 2020, overtly right-wing police trade unions, demonstrated in uniform (some throwing down their handcuffs) when the government attempted to ban the chokehold following the death of delivery driver Cédric Chouviat who had allegedly cried out seven times 'I'm suffocating' while in the hold that led to his death. Now, in an extraordinary move, two French trade unions issued a communique which described rioters as 'savage hordes' and 'vermin' and put elected politicians on notice that they will revolt if the government does not follow its plan to restore order.

"Every Society Has the Criminals it Deserves"

J Robinson - HMP High Point: This quote on first appearance seemed like yet another negative poke at criminals but after a few months of deep reflection I have felt that these words are asking questions of society and holding so-called leaders to account. Today we live in a United Kingdom which is so divided and broken that people in the real world have less vision over what is going on around them than those who are locked behind walls and fences. They say if you would like a true reflection of the state of the country you live in, take a good look at its prisons and justice system.

The government bangs the eternal drum of getting tough on crime and it continues this propaganda through its far from impartial mouthpiece the BBC. The hard fact is that being tough on crime does not stop crime; it only makes it more prolific and far more severe, and the examples are plain to see. States in the USA have the lethal injection as punishment for serious crimes, Chicago had a higher murder rate than the death rate in Afghanistan in the height of the War on Terror. In Thailand dealing with drugs carries the death sentence but still the reward is worth the risk to so many people. These and so many more are examples and proof that as long as there is a disparity between those who have and those who have not, crime will always exist.

The UK claims, boldly, to have the best justice system in the world but I think that the only thing the UK has in large supply is its examples of delusional grandeur. Let's be realistic, we have a government who still believes in empire, throwing taxpayers money into weapons which enable young boys and girls to get their heads blown off on both sides of a war which is none of our business, again, against the most heavily nuclear armed country in the planet and then the cost of living skyrockets and we all starve and suffer because our very naive leaders underestimate the country that really won World War 2. Frankly the whole system is criminal, I guess it takes one to know one, and that's why I'm calling out the Bull Shit on all of it starting from the justice system. I have noticed that some individuals write into Inside Time just to tell others to stop complaining, to me that's another sign of the times we are living in and I challenge that because unity is everything and if you make the choice to belittle or make light of the very real situation that yourself and all of us are striving in who will help you when your time comes? We are captives in a place where our daily meals cost is less than that of the dog that's trained to sniff you for drugs, is that not worth making noise about?

Kellie Sutton Unlawfully Killed In Self Inflicted Death Following Domestic Abuse

Kellie Sutton was a 30 year old mother of three. In March 2017 she started seeing Steven Gane who subjected her to physical and psychological domestic abuse from the start of their relationship. Kellie was discovered unconscious on 23 August 2017, apparently having hanged herself, and was pronounced dead in hospital three days later. An inquest jury has now concluded that Kellie was unlawfully killed, in that the domestic abuse that she was subjected to caused her death. The jury also reached critical findings that failings of Hertfordshire Police officers also contributed to Kellie's death.

Close to Home: the Case for Localising Criminal Justice

Fionnuala Ratcliffe: Justice: Transform Justice's envisions a system where probation, magistrates' courts administration and CPS administration is delegated to PCC (police and crime commissioner) level. Budgets for these services would be delegated to local level with no funding pots remaining with Whitehall civil servants. What difference would this actually make? Unlike in the USA, local areas wouldn't be able to change primary legislation.

But we think it could make a radical difference to the efficiency with which money is used and to the funding available for prevention and activities to reduce reoffending. One example is in resolving crime without going to court. Someone who commits a lower level crime can be charged or diverted from prosecution. Out of court resolutions are more effective in reducing reoffending and more cost effective since there is no expensive court hearing.

Victims and those who commit crime can move on more quickly if they don't have to wait for a court date. But there is currently no financial incentive for the police to resolve more crime without going to court. If the police give someone who commits a crime a community resolution, conditional caution or deferred prosecution, they have to pay for any programmes, staff or administration involved. Whereas if they charge the person, the costs are mainly borne by the courts service and probation. If courts administration, probation and police budgets were pooled and localised, the local police and crime commissioner could attach funding to the If you leave prison with a roof over your head you are more likely to reoffend because homelessness is a barrier to getting benefits, jobs and healthcare. Localisation of services would also help reduce homelessness amongst those leaving prison and reduce remand.