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# MOJUK: Newsletter 'Inside Out' 1009 (26/06/2024) - Cost £1

### Rejection of Claims for Compensation for MOJ Did Not Breach the European Convention

In Grand Chamber judgment in the case of Nealon and Hallam v. the United Kingdom (applications nos. 32483/19 and 35049/19) the European Court of Human Rights held, by a majority of 12 votes to 5, that there had been: no violation of Article 6 § 2 (presumption of innocence) of the European Convention on Human Rights. The case concerned the rejection of the applicants' claims for compensation for a miscarriage of justice after their convictions had been quashed when new evidence had undermined the cases against them.

The statutory scheme for compensation for miscarriages of justice in the Criminal Justice Act 1988, as amended by the Anti-Social Behaviour, Crime and Policing Act 2014, provided for compensation for a miscarriage of justice only where a new or newly discovered fact showed beyond reasonable doubt that the person concerned had not committed the offence. The applicants argued that the statutory scheme was incompatible with Article 6 § 2 because it required them to "prove" their "innocence" in order to be eligible for compensation.

In its case-law the Court has acknowledged a second aspect to Article 6 § 2, which comes into play after criminal proceedings have concluded in order to protect formerly accused persons who have been acquitted, or in respect of whom criminal proceedings were discontinued, from being treated by public officials and authorities as though they are in fact guilty. Those persons are innocent in the eyes of the law and must be treated as such.

In this case, the Court confirmed that Article 6 § 2 of the Convention was applicable in this second aspect. Furthermore, following a review of its case-law on this issue, the Court considered that in all such cases, regardless of the nature of the subsequent proceedings, and regardless of whether the criminal proceedings had ended in an acquittal or a discontinuance, the question for the Court to consider was whether the decisions and reasoning of the domestic courts or other authorities in the subsequent proceedings, when considered as a whole, and in the context of the exercise which they were required by domestic law to undertake, amounted to the imputation of criminal liability to the applicant. To impute criminal liability to a person was to reflect an opinion that he or she was guilty to the criminal standard of the commission of a criminal offence.

The Court noted that the test in section 133(1ZA) of the amended 1988 Act required the Justice Secretary, in the context of a confidential civil and administrative procedure, to comment only on whether the new or newly discovered fact showed beyond reasonable doubt that the applicant had not committed the offence in question. The refusal of compensation by the Justice Secretary did not, therefore, impute criminal guilt to the applicants by reflecting the opinion that they were guilty to the criminal standard of committing the criminal offences, nor did it suggest that the criminal proceedings should have been determined differently. Finding that it could not be shown beyond reasonable doubt that an applicant had not committed an offence – by reference to a new or newly discovered fact or otherwise – was not tantamount to finding that he or she had committed the offence. Therefore, it could not be said that the refusal of compensation by the Justice Secretary attributed criminal guilt to the applicants. The Court concluded that the refusal of the applicants' claims for compensation under section 133(1ZA) of the 1988 Act had not breached the presumption of innocence in its second aspect.

### 'Deprivation of Liberty' Orders: A 'Shocking Moral Failure' for Vulnerable Children

*Bradley Young, Justice Gap:* Courts have no choice but to 'lock up' vulnerable children in 'unregulated' and 'highly inappropriate' accommodations, according to England's top family judge. Sir James Munby laments the lack of safe and supportive care plans as 'a shocking moral failure.' The number of applications for 'deprivation of liberty' (DoL) orders is on the rise. In 2017-18, local authorities made 102 applications to impose a DoL order. By 2023-24, this figure had risen to 1,234, with cases involving children as young as 7 being placed an average of 55 miles away from their original home.

The crisis, described as having all the 'elements of a tragedy', is exacerbated by the 'chronic shortage' of secure local council units to safely accommodate children. Around 50% of DoL applications in 2022-23 led to children being separated from their families and subjected to constant surveillance in remote, unregulated properties such as holiday homes, Premier Inns, and in some appalling cases, canal boats. This isolating experience, branded as 'traumatising and depressing' by Dame Rachel de Souza, Children's Commissioner for England, severely impacts young people's education and life chances. Advocacy on this issue has been fervent, so no one can claim that this 'scandal' is a hidden one. In 2021, Lady Black of the supreme court criticised the DoL framework as an 'imperfect stop gap', lacking any real 'long term solution' for the complex needs of vulnerable children. Sir Andrew McFarlane, Munby's successor as President of the High Court's family division, accused Education Secretary Gillian Keeghan of 'complacency bordering on cynicism' for the inadequate planning and provision of accommodations for at-risk children.

### Early Removal Scheme

*Hamza F – HMP Maidstone:* I am a human being as well as a citizen of this country. I am one of thousands of people being held in custody on the Early Removal Scheme (ERS) after my ERS eligibility date. I'm at Maidstone because I'm a foreign national prisoner. Like others, I'm concerned about our releases and our possible deportations. With the new law, every foreign prisoner who has been sentenced to more than 12 months must face a deportation order by the Secretary of State. Every prisoner that would like to be deported will get a release date on his notification sentence slip, and will be able to go back to his country at half his sentence. Yet many people that signed the paper to be deported at their half-sentence point are still detained in custody. Many of them have family in the UK and have been socially integrated into this country.

My question is: what is the point of that? Does it make sense? Being deported from the country, for many of us, is a punishment. But when we decide to sign and cooperate with the Home Office, we are still held in custody far beyond the half-point of our sentence. If I will be deported at the end of my sentence, what's the point of me signing to be co-operative, when I could be using that time to fight my case to be released into the UK and back to see my family and friends. There are a lot of people that never sign these forms, and at the end of the sentence they have been held in prisons because they are of interest to the Home Office and risk being deported. After months, they're released or transferred to an immigration centre. Being held in custody after your release date is an injustice. I can say that the Home Office and the Secretary of State are playing with human lives and human minds. We cannot be treated like that just because we are foreign. It's true when they say prisoners don't have rights. Everyone makes mistakes, but it doesn't mean overstaying in prison is the solution. If we sign the paperwork and we do co-operate, just deport us. Many foreign prisoners will understand this frustration, because we are living the same vibe.

**Reckless Youth? Why Courts Should Pay More Attention to Maturity**

*Transform Justice:* We have known for over a decade that the brain matures at 25 (on average) not 18. But the court system for the most part acts as if an 18 year old is as mature as a 50 year old. Under 18 year old defendants are dealt with in the youth court which is closed to the public and where all the practitioners and judges are trained in dealing with children, and mete out child-specific sentences. 18-25 year olds get few breaks in the adult magistrates' court. The court, the practitioners and approach are for the most part exactly the same for anyone deemed to be an adult. Yet how mature someone is affects their impulsivity, reasoning, ability to control emotions and resistance to peer pressure. Someone who is less mature may be less culpable for the offence. Maturity can also impact how someone presents in court and the support they need to participate effectively in the hearing.

Most young people grow out of crime, but the wrong criminal sanction can prevent this. In recent years, there has been some acknowledgement by judges and magistrates that they should take account of maturity both in their approach and in sentencing. The Sentencing Council's general guideline on age and/or lack of maturity recognises the potential impact of low maturity on a person's responsibility for the offence and their ability to cope with a prison or community sentence and says that this "may justify a reduction in the sentence". In a 2021 report the Magistrates' Association recommended magistrates should be trained to understand maturity and its implications for the court process and decision making.

But does this happen? We recently supported volunteers to observe cases in London's magistrates' courts. Courtwatchers saw 195 hearings involving young people aged 18-25 and were asked to note whether the youth of the defendant seemed to make any difference. Not much – courtwatchers only noted the defendants' maturity being mentioned in a third of the hearings. When maturity came up, it was seldom covered in depth: "maturity was mentioned as an aside". But some lawyers were more specific about the effect of youth on offending. One defence lawyer referred to his client being subject to peer pressure having "got in with the wrong crowd". He advocated for bail because the boy was "highly suggestible and had been exploited by others". Another lawyer cited his client's lack of positive social relations: "Client trafficked from Eritrea in 2019 at age of 15. Was in apprenticeship and has flat in Surrey but unable to sustain training and came back to friends in Croydon, smoking weed and drinking with them. Said covid made it hard for him to maintain college/ training, isolated and everyone he is tied to is non-Croydon. No family, 16-year-old brother is in Calais waiting to come across."

Even when maturity was mentioned, courtwatchers felt that it didn't make a lot of difference to the approach of the court or decisions made. A young woman had failed to attend her previous hearing. Her lawyer suggested she was naïve but "judge completely dismissed this submission…This was not a good enough reason for not complying and she could have made more of an effort to get to court on time". In another case the courtwatcher was concerned that the 18 year old and a 28 year old who were co-defendants were given the same bail conditions "even though the defence reminded the court he would/could find it hard with the distractions of youth to keep to the conditions…The lad looked dishevelled…For all we know the older man could have been coercing the younger man." The challenge is that if only one person in the court is attuned to the maturity issue, then it risks being ignored. The same can happen if the information is put forward late in the day.

One of the most passionate advocates of a sensitive approach to maturity was a prosecutor in the trial of a young Romanian man who had been charged with stealing over £1,000 of alcohol from a supermarket. "The prosecutor used a report on the precarious position of young adults



in society, especially emphasising the ineffectiveness of viewing them as adults as soon as they turn 18. Using the research, he emphasised the growth still needed and urged leniency." However, the courtwatcher felt that the report "was not explored fully. This may be because the report was introduced during the trial, therefore not offering enough time to process." The Magistrates' Association suggested in 2021 that a qualified practitioner should do an assessment of a defendant's maturity early in the prosecution process. This makes sense given that most defendants don't get a pre-sentence report so assessment of maturity is hit and miss.

There is already guidance suggesting that judges take account of maturity, so what can be done to change practice? We suggest training is key – not just for judges but for advocates and legal advisers. All those involved need to understand why young adults need to be approached differently and how to do so. We also recommend that young defendants should be assessed for their maturity at an early stage. Rob Allen, author of the foreword to the report and co-host of the Transform Justice podcast, is more radical. He advocates for young adult cases to be heard in the youth court, where lawyers and judges already have the specialist training. However the change is achieved, the Courtwatch London project shows that only by having eyes on the court can we know what is actually going on.

**Receiving the Right Care in the Right Place at the Right Time**

*Lynn Emslie,Chair IAPDC:* Everyone deserves consistent, high-quality care and support – and that is no less true for people in prison. But people in prison are too often facing long delays to receiving the mental health care and treatment they need. A report published earlier this year by the Chief Inspector of Prisons found that unwell men and women "linger" in prisons for weeks, often months, and sometimes over a year whilst they wait to be transferred to a mental health hospital. These delays are unacceptable and are symptomatic of a long-term shortage of appropriate mental health beds across the country. For people with mental health disorders, prompt access to appropriate treatments in the most suitable settings is essential for reducing the risk of complications and avoiding deterioration, which if left unaddressed may contribute to a more complex clinical and personal recovery for the individual. Funda-mentally, we know that prisons are not suitable or safe environments for people with severe mental health illnesses. The added pressure of the high levels of turnover, overcrowding, and staffing challenges across the prison estate has meant that prison mental health services are under critical strain and can at times struggle to meet the increased demand.

I recently wrote to the Minister for Prisons and the Minister for Mental Health to raise these concerns on behalf of the Independent Advisory Panel on Deaths in Custody (IAPDC). As you may know, a legal 28-day limit to complete transfers from prisons to hospital was introduced in the draft Mental Health Bill. However, the Bill has been stalled since 2022 – and the IAPDC, along with prison and mental health charities, have expressed deep frustration over the lack of progress. I have set out to Ministers that the 28-day limit must be achieved in practice, with or without a new law. Key to ensuring this happens is a significant investment in additional mental health beds and skilled staff across the country.

I also know from my conversations with prison and healthcare staff that remittals – i.e., return to prison from a mental health hospital – can sometimes lead to a disruption in care. Section 117 of the Mental Health Act provides some patients detained in hospital with aftercare when they leave. However, research by the University of Manchester in 2020 found that only a minority (18%) of those remitted back to prison with a legal right to an aftercare plan had one in place at the point of follow-up. The research concluded that the benefits of receiving

care in a mental health hospital "may have been lost on return to prison" because of "a lack of targeted aftercare". It is therefore vital to make sure that proper discharge and follow-up care arrangements are in place to reduce the risk of deterioration and hospital readmission.

I continue to visit prisons in England and Wales to better understand the challenges -and opportunities – to keeping people in prison safe. Earlier this year, I visited HMP Cardiff with IAPDC member Dr Jake Hard. I also visited women's prison HMP Styal to learn about their individualised and psychologically informed care and support services. As ever, I want to hear from you about your experiences, ideas, and recommendations on how to keep people in prison safe. Write to me at: Freepost IAPDC, 102 Petty France, London – no stamp or anything else on the envelope is needed. I look forward to hearing from you.

**Just Like HS2 - Nothing Achieved Cost a Fortune**

*Inside Time:* My current experience with the Parole Board rather reminds me of the HS2 rail link, in that it promised a lot, achieved nothing, and has cost a fortune. I was recalled on February 10, 2023, on an Imprisonment for Public Protection (IPP) sentence, having been at liberty for over five years. The reason for my recall was given as 'bad behaviour'. Having been arrested by the police only to be released without charge but under investigation, I was informed that I would have a recall hearing after 28 days. That did not happen.

Months passed, and then in July I received notification that a paper hearing had been held in June but had been adjourned until August for further paperwork to be added. At the end of August, I was informed that my case had been directed to an oral hearing and, weeks later, I was given the date of January 2024. Three days before my oral hearing, I was visited for the first time by the Offender Management Unit (OMU), who gave me my 323-page dossier. In January, however, I was notified that the oral hearing had been cancelled, with no further details provided. In March of this year, I finally received notification that my hearing had been scheduled for June 26, with a completely new panel.

I cannot believe how wasteful this has been. My parole process has now extended to 15 months. During this period, reports have had to be constantly updated. The most recent dossier is dossier number nine. The Parole Board members must have wasted many hours digesting the 323-page dossier for no reason at all. Now, with a fresh panel, they will presumably have to start from scratch. We read that the prisons are full. It is no wonder when the Parole Board have proved themselves to be so wasteful in their resources. I must now wait to see if I will get the chance to challenge my recall of February 2023. I have a message to the Parole Board – the prisons are full and, as the cliche goes, if you are not part of the solution, then you are definitely part of the problem.

**Half of Early-Released Prisoners Come Straight Back'**

*Inside Time:* Up to half the prisoners released early under a Government scheme intended to release overcrowding have been recalled to jail for breaching their licence or reoffending, according to a report in the Daily Telegraph. More than 100 prisoners a month are being recalled at some jails, Prison Service sources told the newspaper. In one probation area, more than 200 offenders were reportedly freed, with half recalled within a week. Prison watchdogs have blamed jail bosses for releasing prisoners without an address to go to, which meant they ended up homeless, increasing the risk of breaching their licence or reoffending.

The disclosure comes after the Ministry of Justice (MoJ) extended the End of Custody Supervised Licence scheme to allow for the release of prisoners up to 70 days before their scheduled date. The sudden recalls threaten to undermine the effort to tackle the prison crisis.



ECSL was introduced in England and Wales after warnings that prisons would run out of spaces within weeks. A Prison Service source told the Daily Telegraph said the numbers being recalled were "staggering", adding: "There are over 100 a month in some places easily."

It is understood the recalls relate to breaches of licence conditions but not necessarily for committing further offences. Reasons are likely to have included failing to attend appointments with probation or drug agencies, or breaches of orders barring individuals from particular geographical areas. The problem has been highlighted in reports by Charlie Taylor, the Chief Inspector of Prisons, including a man who was released early from the Segregation unit at Lewes prison without a home to go to. He was back in custody before the 11-day inspection visit was over. Probation officers have also raised concerns about people convicted of domestic abuse being released early. One probation officer was quoted by The Times as having said that ECSL is "an absolute shambles" and that probation officers' over the threat being posed by some who are let out are being ignored. Taylor said: "The scheme is unavoidable given the overcrowding in prisons, but is being introduced so quickly that there has not been enough time for the probation service and other agencies to prepare."

The probation officers' trade union, Napo, took issue with comments made by Prime Minister Rishi Sunak about ECSL in the House of Commons. Sunak told MPs: "There are strict eligibility criteria in place, with exclusions based on public safety. No one would be put on the scheme if they were deemed a threat to public safety … Offenders are subject to the toughest of licensing conditions and, if those conditions are broken, they are back in prison for considerably longer." Napo said: "To be crystal clear, these statements are inaccurate and Napo members across England and Wales can cite hundreds of examples since the ECSL scheme was launched in October 2023 to evidence this. Whether the Prime Minister deliberately lied to Parliament depends on how well he was advised on ECSL before he stood up in the House of Commons and started speaking. It may well be the case that, rather than being an outright liar, he simply hasn't got a clue what he's talking about and just parroted out whatever nonsense was written down in his briefing papers."

**Cuffs Stopped Deaf Prisoner From Using Sign Language**

*Inside Time:* A deaf prisoner with cancer was handcuffed on a short chain during hospital visits – leaving him unable to communicate using sign language. The hospital had arranged for a British Sign Language (BSL) interpreter to be present online during a meeting between the 64-year-old man – profoundly deaf since birth – and a consultant overseeing his cancer care. However, the cuffs meant he could not make signs. The consultant and the prisoner, known as Mr A, complained to the prison officer from HMP Lewes whom the man was cuffed to. The officer contacted the prison, and eventually permission was granted for the short chain to be swapped to a longer one, allowing him use of his hands. However, the same situation arose during a second hospital visit. On other occasions, staff at Lewes denied Mr A a BSL interpreter within the jail because they took the view that lip reading and writing would be enough for him to communicate with prison staff, medical staff, and other prisoners.

Mr A, who was remanded to Lewes in August 2021 and spent a year in prison, brought a claim for unlawful discrimination against the Ministry of Justice and Practice Plus Health and Rehabilitation Services, the prison's healthcare provider. He has now reached a settlement with both parties – and been awarded a compensation payout by the Ministry of Justice, of an undisclosed sum. Mr A said: "I am really pleased my claim has now settled, but I am not the only deaf person who has been denied access to a BSL interpreter while in prison. Deaf prisoners should be informed of their rights and supported to have their deaf needs met while in custody." The Ministry of Justice told Inside

Time that it had "agreed to settle this claim with no admission of liability".

Mr A was represented by law firm Leigh Day, which said in a statement: "He was not provided with access to a BSL interpreter by prison or medical staff at the prison even though his communication needs were exacerbated in light of his cancer diagnosis. "Mr A raised his concerns with HMP Lewes to the best of his ability, but the prison took the view that he was able to communicate sufficiently through lip-reading and writing, and no BSL interpreter was made available. A BSL interpreter was also not made available for his appointments with the healthcare department at the prison. "As a result, he faced significant barriers understanding and taking part in prison life, as well as to follow and question medical professionals about his own health."

Benjamin Burrows, a human rights partner Leigh Day who represented Mr A, said: "It is commonly accepted that life in prison is going to be much harder on those who are deaf than for others. However, not providing a deaf prisoner with access to a BSL interpreter, when BSL is their first language, makes life almost impossible for them. "This case shows that the needs of deaf people in prison are still being fundamentally misunderstood. I am pleased that we have been able to settle Mr A's claim, but it is of considerable disappointment and concern that he had to resort to litigation in the first place.

**Prison Capacity Crisis: Union Threatens Legal Action on Overcrowding**

*Inside Time:* The Prison Officers' Association (POA) has threatened legal action if the government tries to squeeze more prisoners into already-crowded jails. The trade union's general secretary, Steve Gillan, told the PA news agency that the entire criminal justice system was in "meltdown", adding: "We are in crisis, we are not prepared to jeopardise the health and safety of our members by doubling up and trebling up in cells just to cram people in. Come June, I think our prisons will be full up and there'll be no flexibility at all." He added "We have been warning against this for several years. Make no mistake, we support HM Prison and Probation Service (HMPPS) leadership and will take any action necessary to protect our members in any attempt to further overcrowd our prisons, under health and safety legislation and indeed legal action." Mark Fairhurst, national chair of the POA, added: "For the safety of all POA members working in prisons we will react accordingly to protect their health and safety if any breach is proposed."

The Public and Commercial Services trade union, which has members working within prison Offender Management units, added its voice to the criticism, saying that staff are at breaking point. It said successive Governments had allowed the situation to deteriorate, and praised leaders within the Prison Service who have stated they will not cross the "red line" and breach safety standards. The Prison Governors' Association has previously threatened legal action against the government if attempts were made to increase prisons' operational capacities – the legal limit on numbers set at each jail – beyond what was safe.

In addition, the Bar Council has called for a Royal Commission into the backlog in criminal cases, which it estimates to have reached close on 90,000, saying the number was far too high even before COVID affected courts. It was particularly critical of Operation Early Dawn, an emergency scheme in May when police were instructed to hold back defendants from going to court just before they were due to be transported because of lack of places to imprison them should they be remanded in custody. This, the Bar Council said, was not only costly in terms of legal fees but unfair on both victims and the accused. A number of Government initiatives aimed at improving the situation were dropped when the General Election was suddenly announced, leading to the abandonment of draft legislation which had not completed its passage through Parliament. At the beginning of June, the prison population of England and Wales stood at just over 87,000, around 2,000 short of capacity.



**Father Trapped In Jail For 12 Years Over - Set Himself Alight**

*Amy-Clare Martin, Independent:* A desperate father who has languished in jail for 12 years under an indefinite jail term imposed after he stole a mobile phone has set himself on fire in prison. Thomas White, 40, was rushed to hospital after he started the blaze in his cell at HMP Manchester on Thursday 13th June. His family said he was assessed by medics for smoke inhalation and injuries to his arm. His devastated sister – who has been calling for him to be moved to a mental health facility – said the desperate act was an attempt on his own life. She fears it is only a matter of "days or weeks" before he makes a successful attempt, and that he has lost hope of ever being freed under his IPP (imprisonment for public protection) sentence. Clara White told The Independent: "Yesterday he set a fire in his cell – not to harm anybody; it's a suicide attempt. He had done it before a few weeks ago at HMP Garth. I fear it's just a matter of weeks or days now until Thomas is successful in taking his own life." She called for him to be moved urgently to a hospital setting where he can be treated for severe mental health problems, adding: "They have been warned. I don't know how many times we have warned them about my brother's serious mental health."

IPP sentences – under which offenders were given a minimum jail term but no maximum – were scrapped in 2012 amid human rights concerns, but the abolition of the policy did not affect those already sentenced, leaving thousands trapped in jail for years beyond their original prison terms.Thomas, who had previous convictions for theft, was handed an IPP sentence with a two-year tariff for robbery just four months before the sentences were outlawed. Then aged 27, he had been binge-drinking when he took the phone from two Christian missionaries in Manchester. But thanks to the indefinite jail term, he is still in prison more than 12 years later – aged 40 – with little hope of release as he battles paranoid schizophrenia. The Independent revealed last month that Thomas had been moved to a different prison for the 12th time in 12 years as he struggles with an endless "prison merry-go-round". The tragic update also comes only a matter of weeks after Thomas was finally reunited with his son Kayden, 14, who had been banned from visiting his father in prison for more than a decade. The reunion was arranged after an intervention by David Blunkett, the architect of the IPP sentence, who admits he regrets introducing the tariff under New Labour in 2005.

Clara said Thomas had been misdiagnosed and treated for borderline personality disorder for years in prison before the family commissioned an independent psychiatrist in 2023, who diagnosed his schizophrenia and linked his declining mental health to the hopelessness of his IPP sentence. Now back in the same prison where he first started his jail term 12 years ago, HMP Manchester – also known as Strangeways – he is locked up for 23 hours a day. Clara added: "It's just desperation, isn't it. Strangeways is a rat-infested old Victorian prison; he's locked up 23 hours a day with no TV, because he's on basic. So he's got nothing to occupy his time." In an emotional phone call yesterday after doctors had checked his lungs for smoke damage, Clara said her brother sounded "very low" and "mentally unwell". "I don't think he will hold on much longer," she added. The Independent has called for an immediate review of the sentences of almost 3,000 IPP prisoners who, like Thomas, are still languishing in prison – 708 of whom have served prison terms more than 10 years longer than their original sentence. Almost 90 IPP prisoners have died by suicide, as families and campaigners issue calls for a resentencing exercise.

The president of the Prison Governors' Association, Tom Wheatley, has branded IPP sentences "a blot on our legal system", while politicians, including former chair of the justice committee Sir Bob Neill, have led calls for prisoners to be resentenced. Although recent reforms passed under the Victims and Prisoners Bill will reduce the IPP licence period from 10 years to three for offenders in the community, they will do little to help those who have never been released. A Prison Service spokesperson said: "Staff responded quickly to a small cell fire yesterday. An offender was taken to hospital as a precaution and has since been discharged and returned to prison."

**Backlogs Spiral Across Justice System**

*Charlie Moloney, Law Society Gazette:* The backlog of cases in criminal courts has continued to rise according to figures released today - which also show the immigration and asylum backlog has risen by 75% in a year. The number of outstanding cases in the Crown courts stood at 68,125 at the end of April, up from 60,760 at the same time last year, a 12% increase. Magistrates courts have also seen a rise from 338,866 cases outstanding in April last year to 387,042 at the end of April this year, a 14% increase. The figures from HMCTS also showed increases in the following areas: The employment tribunal's open caseload increased from 35,840 at the end of April last year to 40,856 at the end of April this year, a 14% increase. The immigration and asylum open caseload increased from 30,872 at the end of April last year to 54,059 at the end of April this year, a 75% increase. The social security and child support open caseload increased from 67,096 at the end of April last year to 80,045 at the end of April this year, a 19% increase.

Nick Emmerson, Law Society president, said: 'It is alarming to see the criminal court backlogs continue to spiral. It is unacceptable that victims, witnesses and defendants are having to wait so long, with their lives in limbo, to access justice. The criminal justice system is in crisis with huge backlogs of cases, crumbling courts and overcrowded prisons. 'There simply are not enough judges and lawyers to work on all the cases and we have heard concerning reports that court buildings are not being used to their full capacity.' Emmerson said a recent report by the National Audit Office had highlighted a decline in the number of lawyers working in criminal defence, which he said is due to a reduction in legal aid fees, increasing levels of stress and poor working conditions. 'It also rightly pointed to the dilapidated state of much of the court estate and the failure to deliver prisoners to court on time as factors which only add to the delays', he added. 'Sustained investment across the criminal justice system must be a priority for the next UK government.'

**Bloody Sunday: Soldier F appears in Court for First Time**

*Julian O'Neill, BBC News:* The former paratrooper known as Soldier F has appeared in a court for the first time since being charged with murders on Bloody Sunday in Londonderry in 1972. His lawyers are mounting a challenge to have the case against him dismissed ahead of his trial. Until today Friday 14th June, he had not attended any hearings in person since being charged in 2019. Relatives of those killed on Bloody Sunday, and their supporters, were in court for his attendance. Thirteen people were shot dead when the Army's Parachute Regiment opened fire on a civil rights march in Londonderry. A large floor-to-ceiling curtain screened a corner of the courtroom from public view.

Soldier F is accused of murdering William McKinney and James Wray when soldiers opened fire on civil rights' demonstrators on 30 January 1972. His lawyer told a hearing in Belfast there was an "insufficiency of evidence" to put him on trial. At the start of proceedings, the judge ruled that an order granting the veteran anonymity should remain in place. The hearing is continuing. At a previous hearing in Derry in December to decide whether the case would proceed a judge said the evidence was strong enough to send the soldier for trial at the Crown Court in Belfast.

Who is Soldier F? A former British soldier who served with the Army's Parachute Regiment in Northern Ireland during the Troubles. He cannot be named due to an interim court order granting his anonymity. Soldier F is being prosecuted for the murders of William McKinney and James Wray on Bloody Sunday. He also faces charges of attempting to murder Patrick O'Donnell, Joseph Friel, Joe Mahon, Michael Quinn and an unknown person on the same date

The decision on whether to prosecute Soldier F involved several legal challenges and U-turns. Having weighed up 125,000 pages of material, prosecutors said in March 2019 that



they would send Soldier F to trial for the murders of Mr Wray and Mr McKinney, as well as several attempted murders. However, in 2021, prosecutors dropped the case after the collapse of the trial of two other Army veterans who were accused of another Troubles-era killing.

At the time, the families of the Bloody Sunday victims said the decision was a "damning indictment of the British justice system" - their legal challenge against the decision was successful. The court then rejected an attempt by the Public Prosecution Service (PPS) to have its own appeal referred to the Supreme Court. Prosecutors subsequently announced that they had decided to resume the prosecution in September 2022. He was returned for trial in December 2023 but no trial date has been given.

**CCRC DNA Trawl - Message to Brian Farrell A9492AH HMP Whitemoor**

I am writing to provide an update about your case. Your case falls within the parameters of a DNA trawl the CCRC has undertaken. Therefore, a nominated decision maker is being assigned to the case to assess whether there might be new forensic opportunities available because of developments in DNA technology, . Please note that this does not mean the CCRC will undertake further forensic work in your case, only that careful consideration will be given to whether it could now assist. I will write to you again before the end of August to give you a further update. Yours sincerely, Leigh Reilly, CCCR Case Review Manager

[People convicted of murder or rape who have had their applications to the Criminal Cases Review Commission (CCRC) turned down could have their cases re-opened to allow new DNA testing, available as a result of developments in DNA techniques, to take place. The CCRC is analysing closed review cases involving murder or rape where the conviction was before the beginning of 2016, to pinpoint those where advances in DNA technology could now help identify an offender. The CCRC has identified almost 5,500 people who were convicted of murder or rape before 2016 and whose applications to the CCRC were turned down.]

**'Massive' 48% Cut in Legal Aid Leaves Vulnerable Without Lawyers**

*Charles Westwood, Justice Gap:* A prominent legal aid firm is challenging the government over its failure to provide adequate public funding for immigration and asylum work as a result of a 48% real-terms cut in pay rates since 1996. Duncan Lewis, in a new judicial review, is arguing that the lord chancellor is failing to fulfil his statutory duty to secure legal aid and leaving unaccompanied asylum-seeking children, victims of sexual violence and trafficking without legal representation, as reported in the Law Gazette.

According to the report, despite a 159% increase in asylum applications between 2019 and 2023, there has only been a 32% increase in cases taken on by civil legal aid providers. Jeremy Bloom, a lead solicitor at Duncan Lewis, explained the 'heartbreaking' decision the firm has had to take in making 'massive reductions in the number of legal aid asylum claims and appeals [they] take on.' The firm has calculated it makes a financial loss for every legal aid case it takes on, which is an unsustainable position that has contributed to the reduction in number of cases receiving legal representation.

Whilst the firm recognises that legal aid representation is not expected to be profitable, as a business they are still required to pay 'salaries, overheads and supervision' and it would be expected they should at least recover the costs from the payment received for carrying out the work. The Government has already begun a review of the legal aid system including the funding for immigration and asylum work, but concerns have been raised that the election will cause further delays to the consideration of any review. Bloom observed that without urgent action and a commitment to any changes to funding, 'another review is too little too late'.

**Murder Conviction of Missouri Woman Overturned After 43 Years in Prison**

Léonie Chao-Fong, Guardian:Sandra "Sandy" Hemme, 63, was convicted of – and sentenced to life imprisonment for – the 1980 slaying of Patricia Jeschke, a library worker in St Joseph, Missouri, after Hemme made statements to the police incriminating herself while she was a psychiatric patient. On Friday 15th June 2024, Livingston county circuit judge Ryan Horsman ruled that "evidence directly" ties the killing of Jeschke to a local police officer who later went to prison for another crime and has since died.

Hemme, who has spent the last 43 years behind bars, must be freed within 30 days unless prosecutors decide to re-try her, the judge said. The ruling came after an evidentiary hearing in January where Hemme's legal team presented arguments supporting her evidence. Hemme's prison term marks the longest-known wrongful conviction of a woman in US history, her attorneys with the Innocence Project – a criminal justice nonprofit – said. "We are grateful to the Court for acknowledging the grave injustice Ms Hemme has endured for more than four decades," her attorneys said in a statement.

Hemme initially pleaded guilty to capital murder in exchange for avoiding the death penalty. But her conviction was thrown out on appeal, according to the Associated Press. She was convicted again in 1985 after a one-day trial in which the only evidence against her was her "confession". In a 147-page petition seeking her exoneration, attorneys argued that authorities ignored Hemme's "wildly contradictory" and "factually impossible" statements while she was a patient at a psychiatric hospital. Hemme, then 20, was receiving treatment for auditory hallucinations, de-realization and drug use when she was targeted by the police, her attorneys said. She had spent most of her life, beginning from the age of 12, in inpatient psychiatric treatment.

Over a series of hours-long interviews, Hemme gave conflicting statements about the murder while being treated with antipsychotic drugs, her attorneys said. "At some points, she was so heavily medicated that she was unable to even hold her head up and was restrained and strapped to a chair," they wrote. Detectives noted that Hemme seemed "mentally confused" and not able to fully comprehend their questions. Steven Fueston, a retired St Joseph police department detective, testified that he stopped one of the interviews because "she didn't seem totally coherent". Police "exploited her mental illness and coerced her into making false statements while she was sedated and being treated with antipsychotic medication", Hemme's lawyers said. They alleged that authorities at the time suppressed evidence that implicated Michael Holman, then a 22-year-old police officer who had tried to use the victim's credit card. Holman's truck was spotted near the crime scene and a pair of earrings identified by Jeschke's father were found in Holman's possession.

Holman had been a suspect and was questioned at the time. Many of the details uncovered during the investigation into Holman were never given to Hemme's attorneys. Holman was investigated for insurance fraud and burglaries and spent time in prison. He died in 2015. In his ruling Friday, Horsman wrote that "no evidence whatsoever outside of Ms Hemme's unreliable statements connects her to the crime", adding that those statements had been "taken while she was in psychiatric crisis and physical pain". In contrast, "this court finds that the evidence directly ties Holman to this crime and murder scene", Horsman wrote. He said prosecutors had failed to disclose evidence that would have helped Hemme's defense and that her trial counsel had fallen "below professional standards". The Missouri attorney general's office, which fought to uphold her conviction, did not immediately comment on the judge's ruling, the Kansas City Star reported.



**Next Government Must Dismantle Our Racist Asylum System**

Open Demmmocracy: Over the past 500 years, Western migration, colonisation, enslavement, imperialism, violence and wealth extraction have shaped the world we live in. They have created massive inequalities of wealth between countries and left people in many regions exposed to more violence, more poverty and at greater risk from climate change. This is as much a problem of the present as it is a matter of history. Western governments continue to extract wealth from – and exert violence on – many countries around the world. Their actions are driving increased displacement and refugee migration. But when the people displaced by current policies or the legacies of old ones try to reach the UK to ask for safety, far too often they are pushed back, detained, deported, and killed. And they are overwhelmingly people of colour. In fact, many are the direct descendants of people who faced the violence of the British Empire in the past.

Our new briefing 'Asylum in the UK: a front line for racial justice' reveals that since 2001, seven in 10 people who sought asylum in the UK were from countries that experienced British colonial rule or high levels of British violence and resource extraction.

Racism is a defining feature of British colonial history. This new work argues that it's also a defining feature of the UK's refugee protection system. They are two sides of the same coin.

*The UK Asylum System is Racial Injustice in Action*

Racism in the asylum system creates fear, abuse, self-isolation, poverty, and low life prospects for racialised minorities who have sought shelter in the UK. Calling out this racism isn't about posturing. It is absolutely critical to protecting refugee lives. Racialised minorities are far more likely to live in terrible homes, be excluded from the jobs market, face abuse from the state and the far right, and be at risk of detention and deportation than those who are not. Why insist it's racist, rather than just inadequate, not fit for purpose, or simply bad? The Annie E. Casey Foundation defines structural racism as "the cumulative and compounding effects of an array of factors that systematically privilege white people and disadvantage people of colour". In other words, policies that generate negative outcomes primarily for racialised minorities are racist. And by this definition, the British asylum system is shot through with structural racism.

We must call it what it is in order to stand a chance at fixing it.

These attacks may not be framed in explicitly racist terms, but they target the same groups While the origins of the racist asylum system go back decades, policy developments particularly since the end of the Cold War have solidified a protection system in the UK that treats people differently depending on where they come from. Just look at how the government responded to the Russian invasion of Ukraine compared to the civil war in Sudan. One group of people fleeing war are rightly provided with a safe route to sanctuary, a warm welcome from the UK Government, access to mainstream benefits, and the right to work. The other group fleeing war must cross the Sahara, the Mediterranean Sea, Europe, and the English Channel to reach the UK. If they make it, they could be detained and potentially deported to Rwanda. Or they could end up in a hotel or army barracks, banned from work, and told to live on £9 a week. Or they could disappear and try to live as invisibly as possible. But what's certain is that no warm welcome will be waiting for them. Look also at how Britain's leading politicians attempt to delegitimise racialised minorities seeking sanctuary in the UK with colourblind phrases such as 'economic migrant', 'bogus asylum seeker', or 'illegal migrant'. These attacks may not be framed in explicitly racist terms, as they would have been in earlier eras. But they target the same groups and seek to have the same effect: exclusion.

Verbal attacks from government ministers comprise just one of the many frontiers on which people seeking asylum face racism. People interviewed for our report say they are also segregated in poor housing that can feel like a prison; denied access to employment or a liveable welfare allowance; and face abuse on the streets or denigration from Home Office officials.