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It's Never Too Late to Prevent Miscarriages of Justice

Unfortunately it takes media pressure to get attention to miscarriages of justice. National media reporting over many years culminating in the ITV series "Mr Bates vs the Post Office" forced the hand of the government in dealing with compensation for victims of wrongful prosecutions. Meanwhile a regional journalist – Tristan Kirk, courts reporter for the Evening Standard – has singlehandedly drawn attention to another very different miscarriage of justice, the Single Justice Procedure (SJP). This is the system used to prosecute the lowest level of crimes – non payment of TV licence, having the wrong tube ticket, not having up to date car tax etc. The defendant receives a prosecution notice in the post and is expected to plead guilty or not guilty either by filling in a paper or online form. If they plead guilty, or if they don't plead at all, they are convicted in a closed court by a magistrate sitting alone. People can theoretically ask for an open court hearing even if they are pleading guilty, but the prosecution notice doesn't make this clear.

The single justice procedure came in in 2015 (enacted in Criminal Justice and Courts Act) and has increased in use since. It was brought in to reduce costs and, ostensibly, to make the criminal justice process more convenient for defendants pleading guilty. 62% of magistrate court cases are now SJP. All the prosecutors who use the SJP are public sector bodies like the police, rail companies, or local authorities. The Crown Prosecution Service (CPS) doesn't use the SJP. Tristan has recently started publishing excerpts from the forms defendants fill in. The mitigation entered suggests that some convictions are totally inappropriate – a 78-year-old with dementia fined for not having car insurance when she was in a care home, a 33-year-old handed a £781 legal bill after accidentally failing to pay £4 to the DVLA and an 85-year-old woman prosecuted for not paying car insurance after suffering a broken neck and admission to a care home.

Tristan Kirk and I have ploughed a slightly lonely furrow, campaigning against the injustice of the SJP. The charity Appeal did fantastic work campaigning on behalf of women prosecuted for not having a TV licence. Kirsty Brimelow KC and Adam Wagner defended people who were landed with very disproportionate SJP fines for Covid offences. But that was about it. The band of allies is now growing exponentially. National news journalists such as Charles Hymas of the Telegraph have made the story the front page. MPs such as Wayne David and Eddie Hughes have begun asking questions. And we've now been joined by the Magistrates' Association who've come out with pretty strong criticism.

The Magistrates' Association recently surveyed their members (though yet to publish the full findings) and in response have made twelve good recommendations aimed at improving magistrates' practice and making it easier for defendants to participate. And then this week the Lord Chancellor answered concerns from Andy Carter MP that some SJP prosecutions may not be in the public interest. Alex Chalk said "fairness is non-negotiable, so it is critical that every person who comes before the courts, whether via the SJP or an open court, gets that fairness...Everyone accepts that the SJP works well and is a useful addition. We just need to see whether it ought to be refined in the interests of promoting transparency." I don't agree that the SJP works well, but at least the government is willing to say it might need "refining".

The two key problems that need to be resolved are: 1) Prosecutors don't have the information they need to judge whether they are prosecuting "in the public interest". This is a key plank of

the CPS test for prosecution, but it relies on having information about the vulnerability of the defendant. SJP prosecutors have no information about those they are prosecuting and don't ask for it. So information on vulnerability is only being revealed to magistrates in the mitigating remarks on the form the defendant fills in. Undoing a prosecution because it should never have been launched is a very messy process. Prosecutors could, as the Magistrates' Association suggests, read the mitigation before a case gets in front of the JP, but surely it would be better not to force a defendant to fill in an "admission of guilt" form if they are going to have their prosecution withdrawn? Better that the prosecutor find out about the suspect before pressing the prosecute button. 2) People accused of SJP offences don't respond to the prosecution notice, so most don't fill in the form anyway. The majority of all those prosecuted do not plead guilty or not guilty. No one knows why not, though the prosecution notices are sent by post so may not even be received. Also defendants may not understand the form or may be too mentally unwell to cope with it. So the moving stories of mitigation uncovered by Tristan Kirk may be just the tip of the iceberg. Those who don't fill in the form might have even more serious problems. Which is why the SJP prosecutors need to find more about the circumstances of everyone they want to prosecute, not just those who fill in the forms. Reform of the SJP has until recently moved at a snail's pace. Let's hope this is the start of a sprint to right its many wrongs.

Police and Government Lose Inquest Court Battle

BBC News: The PSNI and UK government have lost a High Court battle to stop sensitive information from being disclosed at a loyalist paramilitary murder inquest. Liam Paul Thompson, 25, was shot dead in a taxi by the Ulster Freedom Fighters (UFF) in west Belfast in 1994. A coroner decided a limited summary of some material in a police file could be provided to Mr Thompson's next of kin. But lawyers for the NI secretary and the chief constable said it breached a Neither Confirm Nor Deny (NCND) policy. They added it could be done in a way which could go against national security interests.

However, addressing the court in Belfast, Mr Justice Humphreys rejected claims that the coroner's decision was unlawful and irrational. He said: "She took into account all material considerations, including the need to have proper regard to assertions of risks of damage to national security contained in ministerial certificates and the limited circumstances in which a judge or coroner may depart from such an assertion." PSNI Chief Constable Jon Boutcher said the PSNI accepted the judgment and welcomed the clarity it provided.

Disclosure 'Serious Harm' to Public Interest: Mr Thompson was shot at Springfield Park in April 1994 while being given a lift in a taxi. Amid allegations that the Royal Ulster Constabulary (RUC), precursor of the Police Service of Northern Ireland (PSNI), was aware of a credible threat against the cab firm, members of the local community suspect police were also complicit by failing to provide a warning. At an inquest into Mr Thompson's killing, the PSNI and Ministry of Defence (MoD) requested public interest immunity (PII) for documents which would be disclosed to interested parties in proceedings.

These applications were based on certificates issued by Northern Ireland Office minister Steve Baker. He said any disclosure would cause a real risk of serious harm to the public interest. The coroner granted PII for nearly all of the material but said some information contained in one of seven police folders was relevant and should be provided. She determined the risk to national security was not at the level asserted but also ruled that names, dates and intelligence were to be redacted to mitigate against any real risk of serious harm. However, in a challenge held partly

in private, both the PSNI and the Northern Ireland Secretary said the coroner incorrectly applied the legal test, and also disputed her reasons for allowing some of the material.

Inconsistency Claims 'Untenable': On Monday Mr Justice Humphreys denied this claim, adding that the coroner's articulation was "unimpeachable". I am satisfied that the coroner correctly directed herself on the law and was fully sighted on the authorities in relation to PII and the NCND policy," he said. "There is no basis to assert that there was any misdirection as to the law." The judge also described inconsistency claims as untenable, adding that it is "perfectly proper" for a PII to be upheld in part. He dismissed the applications.

Gemma McKeown, the solicitor for Mr Thompson's relatives, welcomed the judgement, describing it as a "significant ruling. It upholds the vital and independent role of the coroner in carrying out the balancing exercise of the competing public interests of national security and open justice," she said. She said Mr Thompson's family now looked forward to "getting this delayed inquest back on track so that it can conclude before 1 May". The Legacy and Reconciliation Act states inquests that have not concluded by that date will close.

PSNI Chief Constable Jon Boutcher said the PSNI was "Committed to continuing to work with the Coroner Service on this inquest. As this is the subject of ongoing inquest proceedings, it would be inappropriate for the Police Service to comment further at this time," he added.

Crown Court Quashes Human Trafficking Victim's Convictions

The Crown Court has quashed a human trafficking victim's convictions after a Criminal Cases Review Commission (CCRC) referral. Ms AAC in April 2003, May 2004 and September 2018 pleaded guilty to three counts of obtaining property by deception, using a false instrument for other than prescription drugs, entering the United Kingdom without leave, and theft. At the time of her 2018 conviction, there were clear indicators that she was a victim of trafficking, which were not investigated, and she was not advised of a possible defence under section 45 of the Modern Slavery Act 2015. The CCRC considered that there was a real possibility that Ms AAC's earlier convictions were an abuse of process because she was not afforded the protection to which victims of trafficking are entitled. Ms AAC's convictions arose from guilty pleas in the Magistrates' Court, and she had no ordinary right of appeal. As a result, the CCRC considered there were exceptional circumstances that justified the referral in the absence of a prior appeal. The CCRC referred the case in January 2024, and the convictions were quashed by the court on 26 March 2024.

Pearse Jordan Death: PPS 'Failed To Take Decision' Over Police Officers

BBC News: The PPS unlawfully failed to take a decision on any potential criminal charges against two police officers in connection with the killing of an IRA man, a High Court judge has ruled. Pearse Jordan was shot by police in 1992. It happened as he ran from a stolen car on the Falls Road in west Belfast. The judge ordered the PPS to reconsider whether the pair should be prosecuted in relation to the inquest into Mr Jordan's death. In 2016, an inquest was unable to reach a concluded view about whether the use of lethal force was justified.

But the coroner, Mr Justice Horner, found that two former members of the RUC, officers M and Q, had given inconsistent and unconvincing evidence. With suspicions that one or both of them edited the original logbook on the day of the shooting, he concluded they may have committed perjury or tried to pervert the course of justice. The coroner went on to report both officers to the Director of Public Prosecutions (DPP). In October last year, the DPP declined to take a decision on whether to prosecute officers M and Q because police had not submitted a file or consid-

ered there was evidence of any offence. Teresa Jordan, Pearse Jordan's mother, challenged that position by claiming breaches of her human rights and the code for prosecutors. She also contended that the DPP had improperly delegated functions within the Justice (Northern Ireland) Act 2002. Lawyers for the prosecuting authority insisted it was legitimate for some cases where there is no evidence of a crime to be dealt with by the police without the need for it to take a decision. However, the judge ruled that the DPP was under a legal obligation to exercise his functions independently after the coroner had referred suspects for potential offences.

'An Error of Law' "At the very least, I am satisfied that it was a misdirection for the Director to take the view... that there was no individual reported to whom the test for prosecution could be applied. It was plainly possible to apply the test for prosecution to the two officers who had been referred to the DPP by the coroner. The suggestion that this could not be done was an error of law." He further held that Mrs Jordan had been deprived of any reasons why the test for prosecution was not met. Granting her application for judicial review, the judge quashed the Director's determination and remitted the case for reconsideration. "It appears almost inevitable that the DPP will direct 'no prosecution' on the basis that the evidential test has not been met," he added. "In doing so he would be required to provide at least some reasons to the applicant for this decision."

Government Rejects Recommendation to Limit Asylum Detention

Venita Yeung, Justice Gap: Six months after the Brook House inquiry was concluded, the government has dismissed its crucial recommendation of setting a time limit on detaining immigrants. The inquiry was intended to prevent the recurrence of the inhumane treatment suffered by migrants at the scandal-hit Brook House immigration centre. This inquiry, in which the Home Office was the main inquiry subject, was in response to BBC's investigative current affairs documentary broadcast in September 2017, which included covert footage of abuse of detained people at Brook House immigration removal centre (IRC) by a number of contracted service provider staff. Kate Eves, the Chairwoman of the inquiry, revealed shocking findings, that there were 19 incidents of mistreatment against detainees over a five-month period. Her investigation also revealed a toxic environment in the IRC where detainees were forcibly stripped naked before being relocated, racist remarks and aggressive behaviors were being dismissed as banter. Detainees were also subjected to mocking and derogatory language. These revelations underscored systemic failures within the immigration detention system, raising questions about oversight and safeguards for vulnerable individuals.

Upon the release of the inquiry's conclusive report, former Home Secretary Suella Braverman acknowledged the 'shortcomings in oversight and governance' that failed to safeguard the welfare of detainees at the centre. However, in a statement issued on Tuesday 26th March, the Home Office further responded, stating: 'The government rejects the recommendation to impose a time limit on detention. Such a measure would greatly hinder the process of removing individuals who have violated immigration laws and declined to depart the UK voluntarily.' The government argued that they have accepted some recommendations put forward by the inquiry aimed at safeguarding the rights and dignity of detainees within immigration removal centres.

As the public debate on asylum and immigration system rages on, the voices of detainees and whistleblowers continue to reverberate, demanding justice and accountability for past wrongs. Ms Eves responded: 'I am concerned that the inquiry's recommendations have not been accepted in full; in particular the recommendation of a 28-day time limit on detaining people in environments designed as prisons.' She further added these recommendations have to be implemented 'wholesale' otherwise there is a real prospect that these episodes would happen again.

Irish High Court Finds Decision to List UK as a Safe Third Country Unlawful

Ireland: Following Brexit, the Dublin Regulations no longer applied to the UK and so in December 2020 Ireland made an order designating the UK as a safe third country for the purpose of the International Protection Act 2015. The judicial review included a challenge to the lawfulness of the decision in light of the UK's Rwanda policy. The court set out the history of the Rwanda policy to date, including concerns about the Bill as raised by UNHCR and the Bar Council, and makes a point of noting House of Lords concerns about the treaty. The grounds for judicial review also included that the designation of the UK as a safe third country was unlawful because of the failure to carry out a meaningful review and/or that it was irrational. The High Court held [at 168] that there was a gap between EU law and Irish domestic law and that the latter had failed to include all the necessary safeguards required under EU law. In particular: The failure to require the Minister to be satisfied that a person would not be subjected to serious harm on transfer to a third country, if designated as safe, means that Ireland is in breach of the requirements of EU law, specifically Article 3(3) of the Dublin III Regulations. On that basis it was held that the decision to designate the UK as a safe country was unlawful and the Minister had exceeded their powers in doing so.

The 'Butchers Apron' ~ Aka the 'Union Jack'

The vast majority of people who make it to the UK, seeking asylum come from former British Colonies. Countries that the UK plundered of natural resources and when forced to depart, left most of the countries in political/economic turmoil the ramifications of which still bedevil these countries today. The legacy of the British Empire MUST be front and centre when we make arguments about the injustice of immigration controls. "we are here because you were there and are still there" is critically relevant. Britain with brutal and violent oppression colonized over 57 countries mostly in the 16th/17th/18th centuries. None of the countries asked to be colonized and most of them had to resort to bloody and violent insurgency to drive the British out and gain their freedom/independence back. To the majority of those colonized the Union Jack was known as the 'Butchers Apron'. Though Britain boasted the sun never set on the British Empire, it would be more true to say, 'the sun never set and the blood of innocents never dried.'

Britain Destroyed Records of Colonial Crimes Thousands of papers detailing shameful acts were culled, while others were kept secret illegally. Thousands of documents detailing some of the most shameful acts and crimes committed during the final years of the British empire were systematically destroyed to prevent them falling into the hands of post-independence governments, an official review has concluded. Those papers that survived the purge were flown discreetly to Britain where they were hidden for 50 years in a secret Foreign Office archive, beyond the reach of historians and members of the public, and in breach of legal obligations for them to be transferred into the public domain. Most of the countries after throwing of the shackles of Britain became part of the British Commonwealth; now an intergovernmental organisation of fifty-four independent member states, all but two of which were formerly part of the British Empire. Did the 'Commonwealth' bring peace and economic prosperity, to the people of these nations? Not at all, the Wealth was only common to the rich and all that changed for the indigenous populations; was the color of the flags that flew over them and the accents of their 'masters'. "the days of Britain having to apologise for its colonial history are over". It was a straw man argument, because there has never been an apology for British imperialism. The British Empire has been virtually erased by collective amnesia; like an embarrassing, sordid secret that should never be mentioned in polite company. A foreign country such as Turkey can rightly be berated for failing to come to terms with an atrocity like the Armenian genocide, but the darkest moments of our own history are intentionally forgotten.

Wanted Man Richard Burrows Aged 80 Arrested After 27 Years on the Run

An 80-year-old man who has been on the run for almost three decades has been arrested after returning to the UK from Thailand, police have said. Richard Burrows had failed to attend the start of his trial over alleged child sex offences at Chester Crown Court in 1997. Cheshire Police said Mr Burrows was arrested at Heathrow Airport on Thursday 28th March. It said the charges relate to alleged child abuse between 1969 and 1971.

The force said extensive appeals had been made for information on Mr Burrows' whereabouts, including one on the BBC's Crimewatch programme in 1998. It added that some of the offences were alleged to have occurred at a children's home in Cheshire and others were said to have happened in the West Midlands. Mr Burrows faced 13 counts, including 11 of indecent assault and two of a serious sexual offence, at Chester Crown Court earlier. He was remanded in custody and is due to face a further hearing on 21 June, ahead of a trial in January 2025.

Det Insp Eleanor Atkinson said his arrest was a "significant step forward" in the case. "I also hope that his arrest acts as a warning to any other wanted suspects, demonstrating that no matter how long you hide, we will find you and you will be arrested," she added. The force said it had worked with the National Crime Agency (NCA) to secure the arrest. The NCA said it had identified Mr Burrows was living in Thailand and planned to catch a flight to the UK, which meant Cheshire officers could arrest him at the airport.

More Prisoners Sent Home 60 Days Early

The End of Custody Supervised Licence (ECSL) scheme, launched last October to allow releases 18 days early from prisons which are near-full, has been extended so that releases will be up to 60 days early. Officials have refused to say which prisons are operating ECSL or how many people have benefited, but there were reports that the scheme is now running in more parts of the country – with women benefiting for the first time.

Use of a separate early release scheme, Home Detention Curfew (HDC), will be expanded by lifting a lifetime ban on prisoners who have previously been recalled from HDC for poor behaviour. Instead, they will now serve a two-year ban then become eligible for HDC again.

People on sentences of less than 12 months, who are recalled to prison for licence breaches, will now normally serve fixed-term recalls rather than standard recalls – meaning that they will be out again after 14 days, rather than potentially staying in custody for the rest of their sentence. After Chalk announced the extension of ECSL on March 12, the steadily-rising prison population reversed course and fell by almost 400 in one week – suggesting that the change was having an immediate impact.

Suspended Sentence for Man Who Killed His Mother

Katy Thorne KC represented a man charged with the murder of his mother and accused of serious long term abuse. The man had rung 999 to confess to smothering his mother and she was found to have a number of recent and old rib fractures as well as a fractured thyroid cartilage, indicating strangulation and possible "burking" as well as significant force being used on her for some weeks. Katy secured a number of defence medical experts who identified all the fractures as fragility fractures caused by osteoporosis and resulted in the allegation of long term abuse being withdrawn. The defence expert psychiatrist instructed identified significant mental health issues which resulted in the Prosecution accepting a plea to manslaughter. The man was sentenced to a suspended sentence by HHJ Durran at the Old Bailey on Thursday 28 March 2024.

Evidence to Suggest a Case of Human Trafficking Could See Conviction Overturned

CCRC has referred a case to the Crown Court which involves potential human trafficking. Mr AL was arrested at a property in September 2019 and was convicted several days later for the production of cannabis. He was sentenced to six months in custody. Mr AL pleaded guilty to the offence but stated he had met an individual who offered him a place to stay and work. He said he stayed there because he was homeless and did not want any trouble. He later revealed that he had been threatened and beaten. The CCRC received an application from Mr AL's representatives in April 2022 which included documents suggesting Mr AL had never been advised of a defence under s45 of the Modern Slavery Act 2015, which resulted in him pleading guilty. S45 provides a complete defence for slavery or trafficking victims who commit an offence in specified circumstances. The CCRC now considers that the Crown Court may not uphold the conviction.

Crown Court - Victims and Defendants 'Waiting Far Too Long For Justice'

Monidipa Fouzder, Law Gazette: The government is unlikely to bring down the Crown court backlog to its stated ambition of 53,000 by March 2025 after newly released figures show it has reached a record high. Data published by the Ministry of Justice today shows the backlog reached 67,573 between October and December 2023, up from 62,628 on the same quarter in 2022. The backlog has been steadily climbing during 2023. The number of outstanding cases open for over a year continued to rise and represented 28% of the outstanding caseload.

Law Society president Nick Emmerson said: 'Decades of underfunding and cuts have left us with a justice system which is failing victims and defendants, who are having to wait far too long to access justice, with thousands of cases outstanding for more than two years. The courtrooms themselves are crumbling and adding to the delays. There aren't enough judges and lawyers to cover the cases. Pay and conditions to work in the system are unattractive and court staff are undermanned and under pressure. Eligible people can't access legal aid because changes to the means test have been delayed. Prisons are overcrowded with inmates being released early to free up space.'

Victims' commissioner Baroness Newlove said: 'Previously, I was given to understand the backlog was as a result of a surge in referrals by police and prosecutors. However, the statistics show the volume of new cases is now down 4% and yet the backlog continues to climb. Disposals (completed cases) are also down 1% over the same period. This suggests deeper systemic issues.'

To reduce the backlog, Criminal Bar Association chair Tana Adkin KC said the government must invest in more legal professionals required to deliver fair trials. 'Doing nothing to increase rape and serious sexual offence fees is not an option unless we want to accept that rape and serious sexual offence trials will continue to be delayed for years, repeatedly postponed on the day because there is no barrister to prosecute or defend,' Adkin said. 'The human cost for victims of these crimes as well as innocent defendants is beyond financial measure.'

Prisoner Found Dead After Being Released by Mistake From HMP Bristol

Charlie Moloney, Law Gazette: A prisoner released from prison 'by mistake' after a paperwork error was subsequently found dead, a coroner has heard. Jamie Andrews had been sentenced to serve a prison sentence and was also being held on remand for other offences at HMP Bristol. Guards at the prison 'opened the door and let him out' on 1 December 2022, a coroner said. A lawyer representing the Ministry of Justice said the release was due to 'an error in sending paperwork'.

The 49-year-old, who was then unlawfully at large, was found dead on the streets of Reading, Berkshire, by members of the public three days later. Ian Wade KC, assistant coroner for

Berkshire, said: 'He was ordered to serve a short prison sentence in respect of certain offences for which he was convicted. At the same time, he was to be held in custody to await a further appearance in court in respect of other matters. 'The evidence gathered so far informs me Jamie was literally let out of Bristol Prison on December 1 2022, some three days before he died. The reality of the situation is that he ought not to have been liberated on December 1. 'That is no criticism of Jamie. He did not escape. They opened the door and let him out.' But the coroner said the prisoner was 'likely to have known that he had been freed unlawfully or innappropriately'. A post mortem examination found Andrews had died primarily from ischaemic heart disease, but also because of a number of mainly illegal drugs found in his system.

Michael Etienne, representing Andrews' children, said: 'It appears to have been a police officer working within the internal offence management unit in the prison who discovered Jamie had been wrongly released.' Etienne added that because Andrews was released by mistake, he was technically in state custody at the time he died. HMP Bristol has a history of problems and issues which had been highlighted in recent reports, he argued.

But Jack Murphy, for the Ministry of Justice, said there was no evidence of any systemic failure within the prison and added Andrews was technically not in state custody at the time of his death. 'As much as there was an error, it is incontrovertible the death occurred when he was not in prison,' Murphy said. 'The reason is an error in sending paperwork. There is no evidence before the court that conditions in the prison had a direct link to the death', he added. Wade said a jury would be required for the full inquest

Justice Committee Recommendations on the Regulation of the Legal Professions

Recommendations and conclusions based on the evidence received are as follows:

- The Post Office Horizon Scandal will inevitably have damaged the public's perception of the legal professions. It is imperative that the public can see that the regulatory framework is robust and responsive enough to identify and punish egregious breaches of regulatory standards.
- The Legal Services Act 2007 does not appear to provide a stable long-term framework for the regulation of the legal professions. The Committee is concerned by the amount of discord and disfunction between the approved regulators, the regulatory bodies and the LSB. We recognise that there is relatively little appetite in the sector for far-reaching regulatory change, however, it is undeniable that the case for re-examination of the legislative framework underpinning regulation is growing stronger and stronger.
- Considering the evidence as a whole, we conclude that it is now right to carry out a review of the Legal Services Board and we recommend this to the Government.
- The Committee would like to formally request that the Government adds the role of the Chair of the Legal Services Board to those which are subject to pre-appointment scrutiny by the J C.
- The Committee supports a review of the internal governance rules and would encourage the LSB to consider whether they should be further clarified and strengthened.
- In regards to the merits of CILEX's proposals, we are sceptical of the argument that re-delegation and the proposed change to the titles of CILEX lawyer, from Chartered Legal Executive to Chartered Lawyer, would represent a simplification that would help consumers.
- We would encourage the Law Society and the SRA to take a proactive approach to the needs of in-house lawyers and to demonstrate that they understand the challenges they face at present.
- We appreciate and support the BSB's prioritisation of operational improvements. However, the BSB should consider whether greater institutional independence could also help to facilitate improvements in its effectiveness as a regulator.

There is No Stopping People Seeking Asylum

Over the weekend Friday 24th to Sunday 31st March, the number of people who have crossed the Channel to the UK by small boat reached 5,435. This is a 43% increase from the same time last year. Although all of these arrivals would be blocked from the asylum system if and when the duty to remove in the Illegal Migration Act 2023 is brought into force without amendment, this is not acting as any sort of deterrent. Nor will the Rwanda Bill deter arrivals once it passes and even if a flight does take off, so things continue to look tricky for the government on this front.

Apparently the government can't figure out what it wants to do with the Illegal Migration Act, this is unsurprising given it has always been difficult to see how it would work in practice. This seems to make it more likely that once the Rwanda Bill passes the Home Office will be using that and the existing laws to try to effect removal, rather than the Illegal Migration Act. But who really knows, not even the Home Office it seems. There have been reports that some people have had their notice of intent for Rwanda withdrawn, and a new one issued without a named destination. For now we remain stuck with rumours and uncertainty.

In the meantime, inadmissibility judicial review challenges are going in, some conceded at pre action stage. These challenges will continue until the government explains what they intend to do with the tens of thousands of people who are in the inadmissibility process with nowhere they can all possibly be sent.

History Lesson From America

Former penitentiary now teaches tourists about the danger of locking up too many people

Rachel Billington - Inside Time: Last month I was in America and visited Philadelphia, an hour and a half by train from New York. I was surprised to find a prison, now closed to prisoners and open to the public, which had been built in the 1820s. Since it was walking distance from the centre of town, I decided to pay it a visit. The UK's Victorian prisons are well known: 32 are still in use, housing 22,000 people, over a quarter of the prison population. London's Pentonville, built in 1842, is one of the earliest, followed by others such as Brixton, Wormwood Scrubs, Wandsworth and more all over the British Isles, many in cities. In one 35-year period, 1842 to 1877, 90 were built, often on the famous hub spoke layout. But the Eastern State Penitentiary was built before any of these. How was it that this new country, only founded in the late eighteenth century after throwing off English colonialism, had created a new prison system? Was it a determination to stamp out crime by locking up the perpetrators, what the Victorians came to describe as 'Hard fare, hard labour, hard bed'?

I set out walking through avenues and into a residential area that had grown up many decades after the prison. Eventually, at the end of a quiet road, I sighted a fearsome-looking castle, complete with battlements, turrets, and archery slits for windows. In I went, already thinking I had the answer to my question. My first walk down stone corridors with doors to cells on either side seemed about the usual punishment, even if I half noticed that the cells were large, the building elegantly domed, a mattress on a bed, and what looked like a radiator, near a lavatory and running water.

As I paid more attention to the guide on my earphones, I learnt that this early prison was an experiment with the highest ambitions. It was the brainchild of the Philadelphia Society for Alleviating of Miseries of Public Prisons. It was called Penitentiary because the founder wanted the men (women joined later) to become penitent of their failings and follow a better path, helping themselves and society. The fearsome castle was actually a fake, the castellation was too low to hide behind, and the slit windows were just for show, not even cut all the way through.

The planning inside was to give the prisoners a level of comfort that many would not have

been used to. Indeed, there was central heating, only one person to a cell, sanitation, and purposeful activity available such as learning to make shoes. And the buildings with their high-domed ceilings were elegant rather than depressing. People came from around the world to see this experiment. There was, however, a downside. The founders believed that only in solitude would a sinner face his sins and find the strength to renew his soul. They believed in the innate goodness of mankind who had been led astray by adverse circumstances. Religion was, after all, an important part of the story of independent America. The rule of segregation of one prisoner from another, and even from warders, was so strong that in the short periods the men were outside their cells, they were forced to wear hooded masks.

The English author, Charles Dickens, visiting like others in 1842, noted that "The regime is rigid, strict and hopeless solitary confinement, and I believe it in its effects to be cruel and wrong." His views did not prevail at the time. Indeed England, following the 1865 Prisons Act, put in place what was called the Silent System. In this case, it advocated at the same time harsh penalties and hard labour. But all the ideals in the world were eventually worn down by human nature and by the beginning of the twentieth century the State Penitentiary had begun a very different regime, with joint work, exercise, and a well-staffed hospital. It also became much bigger, with new wings, housing far more men and women, crowded into smaller cells. By 1911 there were 885 residents. Surprisingly, some of these were dogs, including, most famously, Pep, a black Labrador retriever. C2559 was sentenced to life for the murder of the Governor's cat. He became a valued member of the prison community.

Meanwhile the hospital, somewhat imaginatively, offered face-changing operations to make the patient appear no longer threatening and even charming. Less dramatically, Al Capone, the notorious Chicago gangster, had his tonsils out in 1929 while he was living there in a comfortable cell more like a living room. The story went that his eight-month stay was to avoid the repercussions of the St. Valentine's Day massacre, where he'd arranged the deaths of rival bosses. When he departed, he chose the back door to avoid his hundreds of fans waiting at the front. The reality was that the Penitentiary had become like any other large prison, overcrowded, with warders dealing with escapes, riots, and in-house murders. Soul-searching was little in evidence and eventually it was shut down in 1971. For 20 years it was left to moulder, only inhabited by teams of feral cats, and gradually losing the fight against nature's marauding shrubs and trees.

So this might all end as a story of high ideals coming to nothing. But as I walked out into the old exercise yard, I was faced with a tall red structure on which, as I came closer, I read the dire statistics of the prison population in the US. During the past four decades the rate of incarceration has more than quadrupled. Roughly 1.8 million were incarcerated at the end of 2023, plus 803,000 on parole and 2.9 million on probation. The more detailed figures I saw at the Penitentiary are updated regularly. It is a fact that America imprisons more people per head than China. Tourists to Philadelphia – lured out to the Penitentiary to enjoy the re-staging of the Fall of the Bastille or the spine-chilling drama 'Terror in the Night' – can hardly avoid the facts of modern prison policy. Furthermore, an exhibition off the yard vividly explains not only the reasons, primarily longer sentences and more crimes punishable by prison, but also the grim effects of such a heavy penal policy.

So this prison, started with the highest motives, has come full circle and is now trying with the facts and figures and the real stories of real people's experiences to educate the wider world. It seems likely that anyone who has just walked through the crumbling halls and cells of this prison, once crammed with the incarcerated, will have imagined for at least a few minutes what it felt like to live there for years. And this imaginative exercise might make them more open to learning about what

modern America offers their incarcerated fellow citizens. Not just for the thrill of terror and relief that they have escaped such a fate, but to understand a bit more about why and how it happens and to consider whether locking up more and more people in prison is the right way to go.

The experience reminded me of my own visit some years ago to Reading Gaol, then recently discontinued as a prison. As I stood in Oscar Wilde's cell, I pictured Wilde writing his great poem, *The Ballad of Reading Gaol*, and the fact that his crime, homosexual acts, was eventually legalised in 1968. Since the prison was closed in 2013, it has stood empty, costing the MoJ between £2 million and £3 million to keep in repair. Efforts were made to turn it into an arts centre. In January this year, it was finally sold to a Chinese company, Ziran Education Foundation. Last month they announced plans for a hotel, gallery and unspecified 'museum'. After my visit to the Eastern State Penitentiary, it seems even more obvious that at least part of Reading Gaol should be a permanent prison learning centre, arts too, perhaps a school. Leading people towards a greater understanding of the historical and present effect of making long-term imprisonment central to our system of punishment would be a hugely important achievement.

Ministers Tighten NDAs Rules a Little – Five Years After Promising It

Neil Rose, Legal Futures: The government last week closed what campaigners called a "small loophole" to ensure that non-disclosure agreements (NDAs) do not prevent victims from accessing legal and other advice relating to criminal conduct. Changes to the law will also ensure that NDAs cannot be legally enforced if they prevent victims from reporting a crime – a provision ministers first promised five years ago. Further, disclosure will be permitted to certain groups providing it is relevant to criminal conduct and for the purpose of reporting a crime or accessing support or advice. Those groups are: police or other bodies which investigate or prosecute crime (again promised in 2019); "qualified and regulated" lawyers; and other support services such as counsellors, advocacy services or medical professionals which operate under confidentiality principles. The legislation will be introduced "as soon as parliamentary time allows", according to the Ministry of Justice.

Lord Chancellor Alex Chalk said: "We are bringing an end to the murky world of non-disclosure agreements which are too often used to sweep criminality under the carpet and prevent victims from accessing the advice and support they need." Victims and safeguarding minister, Laura Farris MP added: "Sexual harassment is unlawful in the workplace, and it is unacceptable that a few unscrupulous employers have previously sought to construct confidentiality clauses in settlement agreements, that suggest victim cannot report a crime to the police. "This has never been the case and today we are making that crystal clear in law."

Both the Law Society and Bar Council welcomed the move. Law Society president Nick Emmerson said: "The government should also legislate to ensure limitations in confidentiality clauses are clearly set out in employment contracts and settlement agreements and to enhance the independent legal advice received by individuals signing confidentiality clauses and NDAs." Bar Council chair Sam Townend KC said the legislative change should aim to put these matters – which were already unlawful under the common law – "beyond doubt". "Getting the wording and definitions right will be important and we look forward to working with the government and others on this."

Zelda Perkins, co-founder of anti-NDA campaign group Can't Buy My Silence, said that although this was "an important step" in recognising the harms that current NDA practice caused to victims of crime but said it was "only a small loophole" being closed. She continued: "As we know, NDAs are already unenforceable if concealing a crime and although this amendment and the publicity surrounding the issue will help with public education and lawyers

awareness, it does not solve the larger problem. "This is especially true for those currently being gagged as the change will not act retroactively." Ms Perkins said that, although the amendment went some way to meet the 2019 pledges, "there is still much more work to be done". "Can't Buy My Silence will be working to push legislation closer to the Higher Education (Freedom of Speech) Act and the legislation in Ireland, Canada and America where the use of NDAs is more strictly curtailed and I will continue to ask the government and UK legal regulators to look at how best to protect the integrity of law in the complex area of confidentiality being used to protect reputation over wellbeing." Ms Perkins is the woman who first broke a Harvey Weinstein NDA, and she co-founded CBMS with Dr Julie Macfarlane.

For Those of us in Prison There is Only One Season the Season of Sorrow

The very sun and moon seem taken from us. Outside, the day may be blue and gold, but the light that creeps down through the thickly-muffled glass of the small iron-barred window beneath which one sits is grey and niggard. It is always twilight in one's cell, as it is always twilight in one's heart.

I know not whether Laws be right, Or whether Laws be wrong;
All that we know who lie in jail Is that the wall is strong;
And that each day is like a year, A year whose days are long.
But this I know, that every Law. That men have made for man,
Since first Man took his brother's life, And this sad world began,
This too I know — and wise it were If each could know the same
That every prison that men build Is built with bricks of shame,
And bound with bars lest men should see How men their brothers maim.

For us in prison, suffering is one very long moment. We cannot divide it by seasons. We can only record its moods and chronicle their return. With us, time itself does not progress. It revolves. It seems to circle around one centre of the pain. The paralysing immobility of a life every circumstance of which is regulated after an unchangeable pattern, so that we eat and drink and lie down and pray, or kneel at least for prayer, according to the inflexible laws of an iron formula: this immobile quality, that makes each dreadful day in the very minutest detail like its brother, seems to communicate itself to those external forces the very essence of whose existence is ceaseless change.

Of seed-time or harvest, of the reapers bending over the corn, or the grape gatherers threading through the vines, of the grass in the orchard made white with broken blossoms or strewn with fallen fruit: of these, we know nothing and can know nothing.

Oscar Wilde, "From the Depths", HMP Reading, January/March 1897

Innocent - Failed by the CCRC - Join Us

Demonstration Outside CCRC Offices 22 Stephenson Street, Birmingham B2 4BH
Friday 10th May 2024 - 2:00 pm Speakers: Michael Naughton, Peter Tatchell, Philip Walker for Jeremy Bamber, Jane Metcalf, Mike O'Brien

We want Fair Treatment for Those Wrongly Convicted
Unacceptable time it takes for the CCRC to review evidence
Employees who are ex-police
Refusal to obtain relevant disclosure\Forensic work not commissioned of funded
Clients face radio silence of promised updates
Unjust refusals to the Court of Appeal