Jashi v. Georgia (no. 10799/06) - Inadequate Medical Care

The applicant, Davit Jashi, is a Georgian national who was born in 1973 and is currently serving a prison sentence for a drug-related offence. Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), he alleged that while in pre-trial detention he had not been provided with appropriate medical care for his mental health, cardiac and hepatic problems. In particular, he complained that a court decision during a preparatory hearing in January 2006 ordering his admission to a psychiatric hospital for examination had not been enforced. Instead he remained in prison, where he made repeated suicide attempts.

Violation of Article 3 (treatment for mental disorders)

Reshetnyak v. Russia (no. 56027/10) - - Inadequate Medical Care

The applicant, Vitaliy Reshetnyak, is a Russian national who was born in 1979. In March 2006, he was convicted of aggravated robbery and sentenced to six and a half years' imprisonment, to be served in a medical correctional facility given that he suffered from tuberculosis. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complained that he had not received adequate medical care in the facility, as a result of which his condition had deteriorated and he had become disabled, and that his detention conditions had been appalling, in particular because of overcrowding. Further relying on Article 13 (right to an effective remedy), he complained that he had not had an effective remedy for his complaints.

Violation Article 13 + 2 violations Article 3 (lack of adequate medical care/conditions of detention)

ECtHR Rules Overcrowding in Jails Violation of Article 3

Chamber judgment in the case of Torreggiani and Others v. Italy (application no. 43517/09), which is not final, the European Court of Human Rights held, unanimously, that there had been:

A violation of Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights. The Court's judgment is a "pilot judgment" concerning the issue of overcrowding in Italian prisons. This structural problem has now been acknowledged at national level. The Court called on the authorities to put in place, within one year, a remedy or combination of remedies providing redress in respect of violations of the Convention resulting from overcrowding in prison. The Court decided to apply the pilot-judgment procedure in view of the growing number of persons potentially concerned in Italy and of the judgments finding a violation liable to result from the applications in question. The standard recommended by the Committee for the Prevention of Torture in terms of living space in cells was 4 sq. m per person. The Court reiterated that imprisonment did not entail the loss of the rights guaranteed by the Convention.

Hostages: David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar,Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Simon Hall, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

Miscarriages of JusticeUK (MOJUK)
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MOJUK: Newsletter 'Inside Out' No 406 10/01/2013)

If the conviction Doesn't Stick, Trial, Trial Again

Aaron Wallace, Christopher Kerr And Jeff Lewis - Whose Convictions for murder were quashed last month, due to flaws in how the jury was directed are to face a retrial. Senior judges ruled it was in the interests of justice to bring fresh proceedings against the three for the alleged killing of Michael McIlveen in May 2006. The new trial is expected to take place at Antrim Crown Court on 28 January 2013. Aaron Wallace, was granted bail today Monday 7th January, he is to live at an undisclosed address and banned from entering Ballymena as part of his release conditions, Wallace's barrister, Brendan Kelly QC, claimed any new jury could struggle to ignore the publicity that surrounded the previous trial. Christopher Kerr remains in prison. There are doubts as to whether Jeff Lewis will be fit to stand as he has severe health problems. Counsel for the three appellants argued on Monday against such a move due to the passage of time and evidential issues. Frank O'Donoghue, QC, for Kerr, stressed that his client has already served almost seven years in prison. "In the context of a relatively young defendant that is a very significant period of time indeed," he said. Wallace's barrister, Brendan Kelly QC, claimed any new jury could struggle to ignore the publicity that surrounded the previous trial. John Orr QC, for the prosecution, contended that all defence concerns could be dealt with by a trial judge.Judges also heard how Lewis was due to be transferred from prison to another appropriate location due to his unspecified medical condition.Lord Chief Justice Sir Declan Morgan, said: "We have decided that this is a case where there should be a retrial. In light of the publicity issues we consider it inadvisable to say anything more, other than to say the interests of justice do require a retrial."

Philmore Mills/Habib Ullah Protest Vigil: Stop Deaths In Police Custody

[IRR edited version of an article that appeared in the Slough Times on a demonstration that took place Thursday 27th December 2013.] On a dark and cold winter evening protesters campaigning for justice for the two men who died in Thames Valley Police's custody held a peaceful vigil outside Slough police. On the first anniversary of the death, in Thames Valley Police custody, of 57-year-old Philmore Mills, father of four daughters, Philmore's family and the family of 39-year-old Habib Ullah came together to hold a peaceful candlelit vigil outside the main police station in Windsor Road, Slough. Philmore Mills died in police handcuffs on the floor of Ward 9 at the local NHS acute hospital Wexham Park. He was an ill in-patient needing an oxygen mask. He was not wanted by the police for anything.

Habib Ullah, a father of one son and two daughters, was a passenger in a car stopped by Thames Valley Police in High Wycombe where he lived. Police directed the car into a company's car park and then Habib Ullah died whilst being restrained by Thames Valley Police. Rachel Gumbs, the eldest of four sisters, said: 'Our family is determined to get justice for our father Philmore. We are campaigning for our family's right to know exactly what happened and why it happened. Our dead father cannot tell us. We want to get to the truth. We are doing this for our family and for the whole community because what happened to our father affects us all. It can happen to anyone, at any time. We hope and expect the investigations into the death of our father in police custody will be conducted fully and fearlessly. Ultimately we seek complete transparency and

accountability. Our father died more than a year ago and this long wait for answers is agonising.'

Solicitor for the Philmore Mills family, Kate Maynard of Hickman and Rose, a prominent criminal justice and human rights specialist told the Slough Times: 'For any family to have to face the news that their loved one has died after restraint by the police is devastating, but for it to happen in a hospital setting is very hard for them to comprehend. The delay in bereaved families getting information from the investigators breeds suspicion and mistrust. The family hopes that all investigations into how Mr Mills died will be truly robust and that they will get the answers that they need as soon as possible.'

Saqib Deshmukh, a longstanding friend of Habib Ullah's family and a leading Justice for Paps campaigner spoke eloquently about the need for accountability and justice. He also said, 'People from Asia, Africa and the Caribbean did not come to England to bury their own children because they would die in police custody.'

Habib Ullah's children scared of the police: The family told the Slough Times: 'Habib's children miss their Dad a lot. Their father's death has made them scared of the police, especially Amir, aged 6, and Natasha aged 8. The children get frightened when they hear a police siren or see a police vehicle. They think the police will come and hurt them like the police hurt their father. Habib's family miss him most days especially his son Amir who used to play football with him. Birthdays and special religious days are very difficult and emotional times. Habib's mother's, Hamida, health has deteriorated since his death.

She has suffered very greatly. She never ever expected she would have to bury her own son. Habib's widow Musarat is distraught much of the time. She is unable to understand why people in police custody keep dying, why the police always investigate the police and why the whole family and their friends have waited four and a half years for decisive action from the British authorities. At the aborted inquest … the distressing details … were incredibly horrible to hear. We cried a lot. Our tremendous grief continues to this day. Someone must be responsible. We want prompt action but instead we are unjustifiably forced to wait year after year after year for what is supposed to be British Justice. What happened to Habib is plainly not right and neither is the four and a half years of perpetual waiting. The whole system is wrong. We ask for public support to end all deaths in police custody, now and forever. No more families should ever have to experience this absolutely dreadful nightmare. It is inhuman and degrading for the victims' family and friends. People must be protected from police violence. Citizens have a Human Right to Life – that should always be respected by those paid to uphold the law.'

Prisoners Use Table Leg To Escape French Jail Telegraph, 02 Jan 2013

Three prisoners used a table leg to pierce a hole in the roof of their cell in a 14th century French penitentiary and escape in the early hours of New Year's Day. The trio climbed onto the roof of the Colmar prison in eastern France and from there entered an adjoining courthouse, where they fled through a side door. The prisoners, aged 19 to 24, had been jailed on charges of assault and vandalism. Two were detained awaiting trial while the third was serving a two-year term. Poor conditions at the Colmar prison were flagged last week in an independent report commissioned by a lawyer, who said he would sue to make local authorities repair the facility.

The escape highlighted overcrowding and the advanced state of disrepair of an institution originally built in 1316 as a convent, according to prosecutor Bernard Lebeau. "It appears that the ceilings in the cells are made of a crumbly material that was attacked with a makeshift tool made of objects from the cell itself, notably a table leg," he told journalists in Colmar.

There is an alternative, of course, but one that requires even more vision. In July a report by the UN-backed Global Commission on HIV and the Law recommended that all countries decriminalise private and consensual adult sexual behaviours, including same-sex sexual acts and voluntary sex work. It specifically stated that this should also apply to the Swedish model, concluding that criminalising the buying of sex had actually worsened the working lives of prostitutes in that country. Decriminalisation, which is very different to legalisation, has been in place in New Zealand since 2003. Safety has improved, the segregation that occurs with tolerance zones has been avoided, and there has been no increase in prostitution.

In Brussels, the European Women's Lobby described prostitution as "a form of violence, an obstacle to equality, a violation of human dignity, and of human rights". And for too many women, it is. But that will not change until it is also accepted that prostitution is also, for some, the best economic choice.

Russian Prisoners Fight-Back Against Corrupt And Brutal Screws libcom.org, 03/01/13

Hundreds of prisoners at Prison Number 6 in Kopeisk, in the Urals region of Russia, have fought fierce battles with screws and security forces and launched a rooftop occupation in a protest against draconian conditions, torture, extortion, and the use of solitary confinement. Four inmates have died at the prison in recent years following beatings from staff. The protest lasted for two days before the police and army special forces managed to regain control.

The trouble started when around 250 prisoners refused to follow the prison rules and routine, demanding the immediate release of those in solitary confinement. An end to barbaric treatment and extortion were the main demands that the prisoners had. Whilst on the roof, the prisoners unfurled placards that read, "Help us", and "We have a thousand on hunger strike"

300 of the prisoner's family and friends, as well as many former prisoners, gathered outside the jail, and staged a protest. They were shouting obscenities and throwing bottles at police and prison staff. The police battered the protesters and made 39 arrests before the protest concluded.

Court Custody Suites Criticised By Prisons Watchdog *BBC News, 8 January 2013*

Women and children awaiting trial are being kept too close to men in court custody suites, a watchdog has found. The HMCIP study covered four crown courts and 12 magistrates' courts in Cleveland, Durham and Northumbria.

Nick Hardwick HMCIP said there was "widespread confusion" about separation of men, women and juveniles. Pregnant women had to sit on hard benches for several hours in some courts, meanwhile disability and faith provision was also criticised. Much can be done" in the short term to improve the situation. The report came in a new round of inspections of court custody operations, which are contracted out. Some detainees were not always kept "appropriately separate". Court managers were "insufficiently engaged" with custody suites but there were good working relationships between court staff and the contractor, HMIP added.

The report found staff were generally not clear about when to close the partition in custody transfer vehicles, designed to separate men and women or adults and children. Staff had tried to provide reading materials by bringing in newspapers, and all courts had sandwiches and microwave meals available. However, at North Tyneside court some of the meals were out of date. Most courts did not have enough extra clothing or blankets during cold weather, the report found. Cell conditions were "deplorable" at Newcastle magistrates' court, and "poor" at Newton Aycliffe, Teesside magistrates', Newcastle crown court and Sunderland.

itself to the foundation of such a utopia. So you'll forgive me for concluding that the Women's Lobby might as well be demanding a Europe free from vaginas.

At the launch conference, the lobbyists also heard assessments of the competing policies in Sweden and the Netherlands. Though not designed for societies free from sex work, these represent the two most widely recognised models for reducing violence against and exploitation of sex workers. In 1999, Sweden became the first country in the world to criminalise the buying, but not the selling, of sexual services. By contrast, under the Dutch approach prostitution has been legal and state-regulated for over a decade. The split between the two models can be seen in microcosm in Scotland. This week the consultation period ends for the formation of a new nationwide policy on prostitution, with different interests championing either Glasgow's zero tolerance of kerb crawling, or Edinburgh's licensed saunas and on-street toleration zones.

The trouble is that this is not a morally neutral discussion – prostitution provokes that almighty feminist fissure. Are you a rescuer, for whom one woman's willing wage-earning cannot trump the plight of the exploited, drug-addicted abuse survivor? Or an enabler, swallowing whole the inevitability of sex work, mythologising the happy hooker, or daring to suggest that in times of recession plenty of working-class women feel themselves but one step away from the oldest profession?

The experience of sex workers themselves is instructive about both models. A crackdown on clients forces them to work in the shadows, beyond the protection of the law. Legalisation sets up a two-tier system. Women working outside the toleration zones face the same dangers as before. Those working within them have less control over their conditions, pay higher taxes and essentially cede to the state as their pimp. Sex workers themselves say this, but sex workers are not always listened to. Perhaps because what they say doesn't always suit those who claim to advocate on their behalf.

Meanwhile, hard facts are hard to come by. Research is limited, inconclusive or methodologically dodgy, with data plucked out of context and moulded to one agenda or another. The oft-cited Home Office statistic that more than half of prostitutes have been raped or seriously sexually assaulted is in fact taken from two relatively small sample studies of street workers (here and here). This limited provenance makes it no less appalling, but be cautious when the same percentage is applied to all women involved in sex work in Britain.

So who do we mean when we speak about sex workers? A Europe free from prostitution, after all, means a Europe free from prostitutes. The collective imagination offers polar opposites: the highly educated, economically savvy Belle de Jour and the trafficked eastern European innocent, robbed of her passport and imprisoned in a brothel. Both of these are, to an extent, fantasies of what non-sex-workers would like a prostitute to look like. And they ignore the huge variety of women who want protection from exploitation without being treated like a disease to be wiped out in order to end the oppression of all women. Pity is seldom far away from contempt.

Characterising prostitution as a scourge conveniently ignores the fact that sex workers are not plying their trade in a vacuum. An acknowledgement of supply requires an acceptance of demand; that men use prostitutes, even men we love and respect and maybe have sex with ourselves. Not surprisingly, an Ipsos Mori poll in 2008 found that broad public acceptability of buying and selling sex dropped off substantially when people considered that the buyer or seller might be a relation.

I don't think it is limply libertarian or unambitiously pragmatic to question whether a Europe free from prostitution is feasible, or even desirable. And neither side of the fissure really knows whether, without the economic imperative, supply and demand would die out naturally or if it would continue regardless, albeit with women's economic power making the rates higher and the sex safer.

1) **Morton Hall IRC Detainees/Officers Hurt During Violence**

Several prison officers are reported to have been injured during a serious disturbance at the Morton Hall Immigration Removal Centre on Christmas Eve. One prisoner is said to be in a serious condition in hospital with a head injury. Between 30 and 40 Prisoners are believed to have started a peaceful protest against conditions within the facility, and refused to return to their cells when instructed to.

Despite UKBA playing down the incident, the Prison Officer Association (POA) claim that around 50 individuals were involved in serious violence that included the use of home-made knives, pool-cues, and snooker balls. They also claim that there was a serious escape attempt thwarted on Christmas day. A POA spokesperson stated that: "We feel one of our people is going to get killed as staffing levels have been reduced. We will get a member of staff killed on duty".

When you lock people up for being immigrants what do you expect? Not that you can believe anything the disgraceful POA claim. They have a long history of engineering and exaggerating events for their own ends. Only today it was being reported that in 1982 the POA were preparing to provoke prison riots in an attempt to stop a reduction in their overtime pay.

The POA will never get my support on anything. To see them marching on October the 20th with trade unionists and working class militants made me sick. The treatment that these people have dished out to the likes of Des Warren and countless other class struggle prisoners is disgusting.

The following quote is from the Revolutionary Communist Group. "When the POA general secretary Brian Caton states that 'every officer has human rights and they include the right to withdraw their labour' and sections of the left rush to voice their support and solidarity, we should remember that prison officers never stand in solidarity with prisoners who take protest action in support of their human rights. In 1990 when prisoners at Strangeways rose up in protest against years of oppression, brutality and degradation, the POA was first in the queue to denounce them, call them animals and tell barefaced lies about their actions, claiming protesting prisoners had committed murder and torture, in order to prevent public sympathy and destroy solidarity. Most prison officers are from the working class but, like the police, they are hired to protect the ruling class by enforcing its laws and punishing those who do not obey them. They are the defenders of inequality and privilege. They are therefore quite different from state employees who teach, nurse or provide services that benefit the working class"

Solidarity with all those imprisoned in Immigration Removal Centres.

2) Morton Hall Riot Was 'exaggerated', Independent Board Claims *BBC News, 04/0113*

Claims of rioting at an immigration removal centre have been "exaggerated", its independent board has claimed. Officers were hurt during four days of disturbances at Morton Hall in Lincolnshire over the Christmas period. Prison officers union, the POA, said five members of staff had been hurt, and added it feared one of its members would get killed.

But Rod Booth, who chairs the Independent Monitoring Board, denied there were full scale riots. He said he had looked at CCTV footage and the POA's version of events had been exaggerated. 'No danger' He said: "In my opinion there is no danger at Morton Hall whatsoever. There has never been any tension and I believe the staff/detainee relationship is very sound. The POA has taken a serious incident and made it into something far worse."

The union said staff feared losing control of the centre after a large fight broke out involving up to 50 detainees armed with knives and pool cues. Responding to Mr Booth's comments, Glyn Travis, from the union, said: "In my opinion even one assault on a member of staff is one too many and is unacceptable. You will always get different views and opinions but I'm very disappointed the IMB don't believe these incidents are serious. No-one should play down four incidents in such a short period of time."

Sarah Campbell, from the charity Bail for Immigration Detainees said disturbances were not rare. She said: "People are being detained for a long time and sometimes for a number of years, not after being sentenced at court for a criminal offence but for administration reasons because their immigration status is insecure. Therefore people are being detained unlawfully and are very frustrated." The IMB and Border Agency said 12 detainees from Morton Hall had been transferred to other centres and an investigation was under way.

3) POA a Law Unto Themselves Sir David Ramsbotham as HMCIP, Circa 1999

A culture of cynicism among senior officers pervades the prison service and stifles progress, the culture was apparent in the cynical way officers viewed the introduction of new programmes and changing work practices. It was most noticeable among older staff, but even new recruits who began with enthusiasm were ground down "by domination and intimidation" which he described as "a pernicious way of influencing colleagues". The problem was exacerbated by, but not entirely due to, uneasy industrial relations with staff associations, the biggest of which is the Prison Officers' Association.

Staff talked openly of the ability of POA to keep managerial decisions in check, or even, on occasions, to have the power of veto over them. All expressions of the will of staff, and its authority, were seen to come through the POA, and, as a result, the relationship between management and the POA was not, in our view, a working partnership. Many staff expressed the view that they could take little action without the authority of the POA,

But what concerns me, as far as the future, in particular, is concerned, is that managers appeared to lack the support and authority of the Prisons Board which is essential to enable them to tackle these attitudes, and those who profess them, effectively. What is more, the attitude of automatic challenge to any manifestation of management has clearly not grown up overnight, but been allowed to develop and survive for a number of years. It is now part of the unwritten culture of HMPs, and represents what good staff, and all decent minded people, know to be profoundly wrong, and in need of elimination. The question is 'how?'

In 2001 David Ramsbotham, said the activities of the Prison Officers' Association (POA) at Feltham young offenders' institution were "absolutely intolerable". He believed the POA prevented any chance of real change at the unit where 19-year-old Zahid Mubarek died in March 200, just hours before he was due to be released. At the time he said, "The attitude of the POA in Feltham is perfectly appalling. "It's a bastion of all that is unsatisfactory about the POA attitude. "Their attitude to change, has put Feltham back light years and held it back. They seem to pride themselves on that. "If Feltham is not prepared to deliver the goods, we will get rid of the POA who don't appear to be prepared to do it, and bring in a private sector company who will."

4) Prison Officers Association has Anything Changed Since 1999?

Not a bloody thing, in 2009 the POA in Northern Ireland to get rid of a a new governor who wanted to bring reforms to conditions in HMP Maghaberry, fitted up Republican dissident, Brendan McConville by planting a note in his cell, containing personal details about the governor of Maghaberry jail. The governor resigned fearing for his life as he thought the note was genuine. A 15-month investigation into the incident, concluded the note was hidden in the cell by a member of the Prison Officers Association opposed to planned reforms at the prison.

Since the Government announced cuts to the prison service, there have been a number of violent incidents at various HMPs around the country. Prisoners perceptions of these events were that they were instigated/manipulated by the POA, trying to make the government change their minds.

and the report of Dr Fowler, have been dealt with by the Commission in a way that is not open to challenge, it seems to me that properly understood the approach of the Commission has been one that is very favourable to Mr Bamber making the assumption, in the case of expert evidence in his favour, that it is admissible, and going on to make a judgment on that basis.

39. I would add, in relation to the assumption about the receipt by the Court of Appeal (Criminal Division) of fresh evidence, it is ready to receive evidence of an expert nature where there has been appropriate scientific advances. It is much more cautious about expert evidence which is accepted as not new science, but the result of more research on the specific case or another view. I say that because the assumption upon which the Commission has proceeded is one that is as favourable and as generous as could be made to Mr Bamber.

The alleged failure to make further enquiries: 40. I turn, therefore, having dealt at some length with that first ground of challenge, to the other remaining ground of challenge. That relates to the failure to make further enquiries. As is apparent from the summary I have given of the report of Dr Fowler and the report of Dr Caruso, both are preliminary in nature. It is argued, again attractively by Mr Simon McKay, that it was the duty of the Commission, as these reports were preliminary, to have made further enquiries. However, again the question is not whether this court thinks further enquiries should be made, but whether the judgment of the Commission is one that is open to challenge.

41. It seems to me that a challenge is impossible to make for two primary reasons. First, the Commission has spent a very, very considerable time, namely from March 2004 until April 2012, examining for a second time the safety of the convictions. It must be a matter for the Commission's judgment whether, in those circumstances, it is right to prolong the investigation. Secondly, and more importantly, there is the question of the Commission's judgment as to whether such enquiries would actually advance the matter further. It seems to me that their decision that further enquiries would not advance the matter further is a matter that on the evidence before this court was a decision plainly open to them on the circumstances. I sought to illustrate that in the observations I have made in relation to heating up the barrel of the rifle.

42. Overall conclusion 43. In my judgment, therefore, this is a case where Mr McKay has taken a very responsible attitude. He has advanced points that could properly be made to the Commission. He has pursued those points with considerable vigour and provided to the Commission two areas where they had to consider the new evidence very carefully. But having reviewed with his considerable assistance, and that of the Commission, the Commission's approach to these matters, I cannot see any way in which on the assumptions that have been made, all of which are entirely favourable to Mr Bamber, or any proper challenge can be made to this decision.

44. For these reasons, which in the light of the length of time that this case has been going on, and its notoriety, I have given at some length, I would refuse this renewed application.

Do We Actually Want To Rid Europe Of Its Sex Workers?

Treating prostitution as a scourge conveniently ignores the fact that people are not plying their trade in a vacuum. by Libby Brooks, The Guardian, Sunday 9 December 2012

"Towards a Europe free from prostitution" – this is the call from the European Women's Lobby, a coalition of some 200 women's rights NGOs from across the EU, which met at the European parliament last week to launch their campaign. And to build a world where sex is no longer commodified and pleasure is freely exchanged is indeed a laudable feminist project. But we make our lemonade with the lemons we're given, and 21st-century capitalism, under which women's economic and social rights remain grossly circumscribed, does not lend

how the barrel of the rifle could have been heated sufficiently.

30. There is, however, a further report that was submitted, after the Commission's decision of 25 April 2012, in which Mr Boyce set out his view as to how the rifle end could have been heated to the necessary temperature. He accepts that multiple firing would not have had sufficient effect on the temperature of the rifle barrel or the silencer. He concludes that the rifle or the silencer had to be heated artificially in order to burn. It was possible to heat a barrel on a hot plate of a cooker to 200 degrees in less than five minutes.

31. This issue is not dealt with by the Commission, but I think it would be helpful to express a short view. There was in the kitchen an AGA. The mechanism that Mr Boyce suggests must imply the placing of the rifle barrel on a hot plate of the AGA, and by the hot plate of the AGA I mean that part that is normally used for cooking and which when it is not used for cooking can be covered by a lid. An AGA is not constructed so if a gun is leant against it, it will heat the barrel up. As Mr Boyce makes clear, it would have to be on the hot plate. It seems to me that if that further evidence had been before the Commission, although it would be a matter for them, it would seem very improbable that a barrel would have been heated in that way.

32. So in my judgment it is clear that the evidence of Dr Caruso, on the assumption that it is admissible, would not in the Commission's judgment have been sufficient to pass the test in Pendleton, and I can see no basis upon which their view could be challenged.

33. Dr Fowler's evidence 34. The evidence of Dr Fowler is set out in a more substantial report. That report has been peer-reviewed by Dr Dragovich, who is Chief Medical Examiner in Oakland County, Michigan and Dr Marcella Fierro, who is the retired Chief Medical Examiner to the Commonwealth of Virginia. Both have qualifications as forensic pathologists. In his careful report, Dr Fowler makes clear that he has reviewed the evidence, which was available in relation to the wounds. He concluded that the abrasions found were consistent with those of a rifle without a silencer, that there were no distinctive marks on the body which showed that a silencer had been attached, and the residue was consistent with contact wounds. He refers to further work that needs doing, a matter to which I will return in a moment.

35. The Commission's judgment on this matter, which is set out carefully in its decision, is at paragraphs 360 to 362. First of all, it is said that Dr Fowler did not deal with the fact that there was no residue found in the rifle, but there was the blood flake found in the silencer. Although there is really no answer to the first half of that observation, as regards the second there is the point, on which I was prepared to make an assumption, namely that there may be a problem with the blood flake. I have made that assumption because it seems to me that it is possible to do so by reference to the other reasons given by the Commission. The first is the fact that the evidence of Dr Fowler does not grapple with the evidence of the fight in the kitchen and the paint evidence, to which I have referred; second, it does not grapple with the contemporaneous evidence of Mr Fletcher and Dr Vanezis at the trial, which dealt with these issues; third, the Commission took the view that the injuries could well have been caused by another process.

36. It is accepted realistically by Mr McKay that those are formidable points. I cannot see how one can begin to say those are points that the Commission can in any way be criticised for arriving at. They must be plainly within that ambit of judgment open to the Commission. It therefore seems to me very, very difficult to see how, on the analysis that I have briefly summarised, the conclusion in relation to the evidence of Dr Fowler is susceptible to challenge.

37. Conclusion on the main issues 38. Taking, therefore, the three grounds relied on together, and for this purpose making an assumption again in favour of Mr Bamber on the first point, but doing so on the basis that the second and third points, namely the report of Dr Caruso

Simon Hall to John Curtis CCRC Case review Manager

I thought I would allow the festive period to pass before I replied to your letter dated 20th December 2012. I trust that yourself and all the other Commissioners had a good Christmas and New Year. Well I didn't. Neither did Stephanie; having to spend another Christmas away from each other, with just one 2 hour visit to keep us going. It was my 11th Christmas in prison John. How was your turkey? In response to your letter, then I would definitely like to arrange a meeting as soon as possible to discuss the case with you, attended also by Dr Michael Naughton & Gabe Tan of Bristol University. I will also be seeking permission for Stephanie to be present. How soon will this meeting take place?

I believe that in light of the fact that this case has inexplicably dragged on and on for so long, every effort should be made to conduct a meeting by the end of January 2013. I do not understand how things can take so long, while I sit here, an Innocent man, who has already lost 10 1/2 years of his life? It seems to me that the Commission is in no rush to investigate this case. But this case has been in the hands of the CCRC for many many years, so I would expect some expedience.

To me, it seems such an easy case to solve. Tiernan Coyle has already proven that the fibres, being the only evidence in this case, do not match! You referred the case based on that evidence. We know the judges obviously ruled incorrectly, so it follows that you and the rest of the CCRC know I am Innocent of this murder!

If I were in your position, I would be 'busting a gut' to get me out of prison as soon as possible. Instead; I see myself as a Case number! A job! Nine to five! I am a human being John, denied liberty! Whether it be human error, pride, incompetence, corruption, fear of embarrassment, whatever; it needs fixing now!

What's taking so long John? You have received submission after submission, idea after idea but it's as if the Commission isn't interested and will do things the Commissions way. DNA, footprints, fingerprints, there's so much work that can be done on these things alone. There are experts in America willing to work on the fibre evidence but the Commission is reluctant to use them. Why John? If the CPS saw fit to instruct an expert from overseas, they would do so. Why can't you?

What's with all the secrecy John? "We would not discuss particular lines of enquiry or disclose any additional information." Perhaps you should or will this meeting be, essentially, a No Comment interview on your part.

I want to know what's going on I want to know what you are doing and why you feel it's relevant. I also want to know what you are not doing and why you are not doing it.. Things would be so much quicker and easier with a bit of communication. I won't be going away John! If I am not satisfied, I will be making further submissions, requests, applications etc etc. So let's get it done right this time. But let's work together. You could start by taking the barriers down and being approachable. Let us know what is happening, don't leave us in the dark. That leads nicely to my final point: paragraph 5: The Commission appreciates the position of its applicants, their relatives and others connected with a crime and we do not object to Mrs Hall reminding us of her feelings about aspects of this case. However, it is important to note that emails repeating information that is already known are unnecessary and that pleas, however strident, will not and cannot accelerate the review.

Is pretty much asking my wife to stop reminding you how hard our lives are. Well that's not going to happen John. The longer this goes on, the more of our lives we lose, so why should we stop reminding people of that fact. Perhaps it might install a bit of empathy and we won't be treated as a reference number or a case file. Stephanie is my representative alongside Dr Naughton. Please organise the meeting for January.

Yours sincerely, Simon Hall, A767 8AC, HMP Hollesley Bay, Woodbridge, Suffolk, IP12 3JW

R (Dragoman) v Camberwell Green Magistrates' Court

D, a Romanian national pleaded guilty to offences of theft and going equipped. The circumstances of the shoplifting had been professional; his bag had been lined with foil in order to avoid triggering the department store's alarm system.D was sentenced to a community order (s 177 Criminal Justice Act 2003) with a requirement that D did not enter the United Kingdom for 12 months. The claimant (D) applied for judicial review of the decision of the defendant magistrates' court to impose a community order with a requirement that he did not enter the United Kingdom for 12 months.

Held: It appeared that in a number of cases where a convicted person was from another country, the convicted person would agree to return to their respective country in order to avoid custody. In order to ensure compliance with that, an order such as that imposed in the instant case had been granted. The clear objective of the s.177 power to exclude as part of a community order was to reduce the risk of reoffending by excluding persons from an area in which they were likely to get into trouble.

The objective was not to punish a particular offender and nor could it possibly be imagined that Parliament intended that provision to provide a basis for excluding someone who was already in the UK, from the UK. There was obviously an entirely different regime that dealt with that exclusionary power under the UK Borders Act 2007.

The purpose of a community order was to rehabilitate someone within the UK. An order of the type imposed in the present case (whether on the invitation of the offender or otherwise) was a backdoor route to deportation, for which a statutory regime existed under the UK Borders Act 2007. Orders could contain a condition excluding an offender from parts of the UK (so as to stop offending), but not from the UK in its entirety. Accordingly the order made in this case was unlawful.

95,344 Behind Bars in the UK on Friday 28th December 2012

Prison population UK/Scotland/N.Ireland Friday 28th December 2012

Figures do not include person held in police cells

England & Wales: prison population Friday 28th December 2012

Male prisoners 79,982 Female prisoners 3,927

Immigration detainees 2,200 (Mean average on any given date)

(868 immigration detainees in prison managed IRCs are included in general prison population figures for England/Wales. Plus: 2,200 immigration detainees in privately run Immigration Removal Centres, not included in prison population figures)

Subtotal: 86,109 - Source Ministry of Justice/UKBA

Scotland: prison population Friday 28th December 2012

Male prisoners (both remand and convicted): 6622

Female prisoners (both remand and convicted): 431

Male young offenders (both remand and convicted): 535

Female young offenders (both remand and convicted): 24

Subtotal: 7,612 - Source: Scottish Prison Service

Northern Ireland: Prison population Friday 28th December 2012

Male prisoners 1,456 Female prisoners 47

Young Offenders: Males 118 Females 2

Subtotal: 1,623: Source: Northern Ireland Prison Service

21. So we turn to what is accepted to be a rather difficult hurdle for Mr Bamber to overcome, namely to show the decision and judgment of the Commission on this key issue was one that can be properly challenged in this court. In looking at that it is necessary to take the three points that are relied on

22. The blood flake 23. The first point that is relied on as constituting reasons for a reference to the Court of Appeal (Criminal Division) is uncertainty about the provenance of the blood flake. I have already referred to the importance to the Crown's case of the finding of the blood flake of the blood group of the sister in the silencer. Plainly if her blood flake was in the silencer it was a very formidable issue for Mr Bamber to overcome.

24. It is suggested that on the basis of the materials put before the Commission there is a proper basis for investigating, even at this stage 27 years later, the possibility that it got there through contamination. The Commission took the view at paragraph 186 of its decision that there was no basis upon which that should be questioned. It is, in my view, not necessary for us to resolve that issue. I will assume that there may be some basis for challenging the conclusion. That is an assumption that is massively in favour of Mr Bamber, because it is difficult to see the grounds upon which the judgment of the Commission, at this late stage, could be questioned.

Dr Caruso's evidence - 25. I do say that because it seems to me that the issue in this case really turns upon the second and third points made, namely the judgment of the Commission in relation to the evidence of Dr Caruso and Dr Fowler.

26. Dr Caruso's evidence is set out in two very short letters. When I say very short letters one is probably about a quarter of a page long and one is slightly less than that. The reason for the brevity of his reports is that he concluded that further tests needed to be made, in particular to see if the barrel of the rifle used could be made hot enough so that it could have inflicted what were said to be burn marks upon the corpse of the deceased father. Dr Caruso came to the view which he expressed briefly, that there was probably cause to believe that the burns were the result of a hot rifle being placed on to the skin of the father. It is not necessary, I think, to say more about his evidence than that.

27. The Commission dealt with this issue at paragraphs 356 to 359. In very brief summary, and it is important for anyone looking again at this matter to look at these paragraphs in full, the Commission concluded that there was insufficient to show that a hot rifle could have caused the marks. His report went no further than saying it was consistent with a heated barrel, but it did not address other mechanisms. The Commission considered that it was unlikely that the barrel could have been heated sufficiently to cause the marks. The report of Dr Caruso did not deal with the evidence at the trial.

28. It seems to me that the most substantial difficulty that relates to challenging this decision is that all of these reasons are reasons within the judgment of the Commission. It is not necessary for this court to reach the view that they were right. As is accepted by Mr McKay, it is not enough for him to show that they were wrong. He has to show, on the ordinary test applicable to a review, that this was not a judgement they could properly have reached. It seems to me, just looking at their reasoning and the facts of this case, these views were properly open to the Commissioners.

29. It would, I think, be helpful to add one further matter. Prior to the Commission making its report, the Commissioners were aware from the screening of the television documentary of the evidence of Mr Boyce, to which I have already referred. His conclusion was a conclusion in support of Dr Caruso, but there was no evidence in that television documentary to show

narrow issue. That relates to the finding of circular wounds on the father. These are said, and were said at the time by one of the experts, to possibly be burn marks. At the time those were unexplained. But it was the prosecution case that the silencer must have been on the gun, first by reference to a flake of blood that was found in the baffles of the silencer that could be attributed to the blood group of the sister, and secondly, that there was red paint on the curled end and a mark on the mantelpiece, which, given the other evidence, showed that the silencer must have been on. As is accepted, on the basis of that evidence at the time of the trial, that part of the Crown's case was not seriously challenged at trial.

14. The proper approach of the Commission 15. The evidence of Dr Caruso and Dr Fowler, to which I shall refer in a moment, was evidence that it was contended, on behalf of the claimant, met the test under section 23(2) of the Criminal Appeal Act 1968 (as amended). Section 2 specifies for the court a number of factors to take into account in deciding whether to admit fresh evidence: first, whether the evidence is capable of belief; secondly, whether it affords any ground for allowing the appeal; thirdly, whether it was admissible; and fourthly, whether it was reasonable explanation for the failure to adduce the evidence at the proceedings.

16. It is central to the approach that the Commission took that the Commission assumed, for the purposes of this review of Jeremy Bamber's case, that those factors and hence the test on its receipt by the Court of Appeal could be satisfied. It is necessary to spell that out because of the way in which the Lord Chief Justice at the time, Lord Bingham of Cornhill, set out the correct approach to a review of the decision of the Criminal Cases Review Commission, in the well-known case of R v Criminal Cases Review Commission ex parte Pearson [1999] 3 All ER 498. He set out that there was in general to be a two-stage test: first, is there a real possibility that the evidence would be received by the Court of Appeal, and secondly, if so is there a real possibility that the court would conclude that it might have affected the decision to convict?

17. The assumption made in this case by the Commission is that the first stage could be satisfied. The Commission were not accepting that it was, but were prepared to assume it could be. It has been accepted, very properly by Mr McKay today that, in the light of that assumption that has been made, it cuts away a ground of challenge to the decision as to whether the Commission properly applied the first stage of the test.

18. There is, in my view, nothing at all wrong with a court or a body such as the Commission saying "Well there are two stages. We will assume you get through stage 1, but you are bound to fail on stage 2." It is often a much more economical way of proceeding. It disadvantages the person, the subject of that decision, in no way, because a point that he might have found difficulty on is resolved in his favour.

19. Thus in this particular case the first and essential ground that is now open to Mr Bamber is the question whether there can be a proper challenge to the judgment of the Commission, that there was no real possibility that the court would conclude that the new evidence might affect the decision of the jury to convict.

20. It is not necessary for me to spell out the test that is applicable to the judgment that the Court would make, because it is set out in the judgment of Lord Bingham, in R v Pendleton [2002] 1 WLR 72. That test is applied regularly by the Court of Appeal (Criminal Division). In the light of the decision of the now Chief Justice, Lord Judge, in R v Erskine [2009] EWCA Crim 1425, it is not necessary to review other cases because the principle was stated by Lord Bingham and it is not necessary to restate it at the levels below the Supreme Court. Secondly, looking at the facts of individual cases advances one nowhere, as the test is so fact-specific.

Justice Secretary Says, Don't Let Hardened Criminals Out Early,

Hardened criminals should serve more time in prison and not be granted automatic early release because locking them up cuts crime, the Justice Secretary has said.

By Robert Winnett, Political Editor, Telegraph 04 Jan 2013

In an interview with The Daily Telegraph, Chris Grayling says that he would “ultimately” like to introduce a system under which only prisoners who have behaved well are released early. Casting aside the doubts of his predecessor, Kenneth Clarke, Mr Grayling insists that putting “people behind bars reduces crime”. However, he warns that “there are financial constraints” and that such radical changes cannot be delivered “overnight”.

The vast majority of prisoners are automatically released after serving half their sentence under rules introduced by Labour, which removed discretion within the system to release only those who had behaved well. As a result, thousands of dangerous criminals and rapists have been returned to the streets after serving just a few years in prison.

Mr Grayling is hoping to start a “rehabilitation revolution” which will lead to fewer prisoners returning to jail after release. The move should free up prison places that can be used to incarcerate those who have not “earned” early release. The Justice Secretary will also use sophisticated tagging technology to curtail the movement and freedom of some prisoners released early. He says: “What people don’t particularly understand is why sentencing works in the way it does. If you get [sentenced for] 10 years, you’re out after five automatically. It’s not something that can be changed overnight, there are constraints on the system, there are constraints on prison places. Ultimately, I’m attracted by an option that doesn’t simply automatically release you at a certain point, regardless of whether you’ve behaved well or not.”

The last Conservative election manifesto described the system of sentencing as “dishonest” and Mr Grayling says today that he wants to set out the “direction” of policy to tackle this problem. “These are not areas where you can deliver radical reforms overnight, you have to work in a direction,” he says. “My message would be that I get and understand concerns the public have over aspects of the system at the moment and I will take whatever steps I can to develop and reform the system in a way that makes that possible. One of the areas where possibly we’ve got increased scope in the future in monitoring offenders is GPS tagging where new technologies mean actually it’s possible to watch an offender wherever they go.” The Justice Secretary says this would toughen the regime for offenders, tighten curfews, and restrict their movements. “I get the frustration and I want the system to evolve and develop but you can’t do everything overnight,” he adds

Mr Grayling was promoted in last autumn’s reshuffle to replace Mr Clarke and his comments signal a further toughening of the Government’s approach towards criminal justice. Although repeatedly stressing the need to improve the rehabilitation of prisoners, he also backs the greater use of prison for offenders. He says he will not cut prison places and insists that one reason that crime is falling is because more people have been in prison. “Every police force will tell you when a serial burglar is behind bars their local burglary rate goes down.”

The Justice Secretary has proposed plans for a “payment by results system” to reward voluntary organisations and companies for mentoring and turning around the lives of former criminals. He has also established a review of the conditions in prisons and describes the ability of some inmates to watch Sky television as “crazy”.

Mr Grayling warns that it is a “challenge” to make prisons seem off-putting to criminals from “dysfunctional backgrounds.” He says that “for some young people, prison is the first stable environ-

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1) Annual trace: Included with last weeks copy of 'Inside Out' a card that must be filled in and returned to MOJUK by Wednesday 23rd January 2013 if you want to continue to receive copies of 'Inside Out'.

2) As y'all know MOJUK has no funding and the cost of 'Inside Out', production/paper/toner/envelopes/stamps is around £1.60 a copy. At the very least y'all behind bars, will have to pay the cost of postage 50p a week.

However it is best if you can get family/friend to make a donation to MOJUK or even better take out a standing order. Get them to Email: mojuk@mojuk.org.uk for details.

If you have no one out side, then best to send a book of 12 second class stamps, (do not send 1st class stamps), this will cover 12 issues and will send a reminder, when more stamps needed.

ment and so it is a challenge for us to make it an environment that they don't want to come back to." In his interview, the Justice Secretary urges the Liberal Democrats to stop attacking their Coalition partners. He describes a letter sent by Nick Clegg to his MPs calling for more attacks on the Conservatives as a "silly political document". He is also understood to believe that the Conservatives should consider pledging to leave the European Union but warns that supporting the UK Independence Party risks "gifting" the next election to Labour. Separately, he is drawing up Conservative plans to overhaul human rights laws, which "at the very least" will involve "curtailing" the reach of the European Court of Human Rights in Britain.

Bamber v Criminal Cases Review Commission Summary - Transcript of decisison

1. The President: 2. Introduction 3. There is before the court the renewed application for judicial review of the decision of the Criminal Cases Review Commission, given on 25 April 2012, not to refer to the Court of Appeal (Criminal Division) the case of the claimant, Jeremy Bamber. I do not propose to set out the events relating to the murders of the Bamber family, which occurred as long ago as August 1985. They were extensively set out in the judgment of the Court of Appeal (Criminal Division), given on 12 December 2002 by the late Kay LJ, in a judgment of great learning and thoroughness, which traversed all the facts as they were known. In any event, the facts are ones that are well-known to the public in general, and it is not necessary to examine them for the purposes of this application for reasons I shall explain.

4. The procedural backgroun 5. The claimant was convicted of the murder of the members of his family. In March 1988 and in 1989 respectively his applications for leave to appeal against conviction were refused, firstly by the Single Judge and then by the full court. In 2001 there was a reference by the Criminal Cases Review Commission to the Court of Appeal (Criminal Division), which was considered by the Court in 2002 in the judgment to which I have just referred. It did not set aside the conviction.

6. After that in March 2004 an application was made to the Criminal Cases Review Commission. It spent a considerable time reviewing the materials on grounds that were then put forward and did so until September 2011. I deal with that extensive period so briefly because it is accepted by Mr Simon McKay, and in my view rightly accepted, that there was nothing in that very long period of time which produced grounds upon which, given the history of the matter, it would have been right to challenge the decision of the Commission. There was nothing further that was before it that justified

any reference to the Court of Appeal (Criminal Division).

7. However, in September 2011 Mr Bamber instructed Mr McKay. If I may say so, he put before the Commission, and has put before us, a case on a much more limited and focused basis, which has been the subject of the grounds that have been argued before us today. His realism and the strength of his advocacy is shown by the fact that he has accepted that in the review before us of the thorough and lengthy decision of the Commission, made, as I have said, on 25 April 2012, that runs to 109 pages, the decision can only really be questioned on three relatively narrow points.

The issues: 8. Those are points that, in effect, he put forward in January 2012. Submissions were made and were supported by evidence from Dr Caruso, who is a professor and Executive Chairman in the Department of Surgery at the University of Arizona College of Medicine, Phoenix, Arizona; he is Chief of the Burns Services of the Arizona Burn Centre. It was also supported by evidence set out in the report of Dr David R Fowler, who is the Chief Medical Examiner of the State of Maryland and has various qualifications as a forensic pathologist. He is what is described on the other side of the Atlantic as a "wound ballistician". Those are the two reports which are central to these proceedings, together with what was subsequently broadcast by ITV in a television programme containing part of the evidence of Mr Boyce, a consultant firearms expert, who had previously been employed in well-known companies, including LGC forensics.

9. That description of the scope of what was put before the Commission needs a little further elucidation. Before turning to that, it is necessary to state that when the Commission refused in its decision to refer the case to the Court of Appeal (Criminal Division) and a judicial review was commenced in June 2012, a very detailed acknowledgment of service was served by the Commission in July 2012. The matter was considered by Ouseley J who refused permission; the application has been renewed before us today.

10. The issue before us can be summarised as follows: the only alternative suspect to Jeremy Bamber was his sister, Sheila Caffell. It was said at the trial, and has been said subsequently, that she was the person who killed the other four members of the family and then committed suicide. The issue, therefore, upon which this application is concentrated, goes to the question of whether there is now a basis for reference to the Court of Appeal (Criminal Division) in relation to whether it can be shown that she was the person who was the murderer. The issue has narrowed to an extent to an even further degree, because it has turned upon the evidence relating to the way in which the father, Mr Bamber senior, was killed.

11. That question again has resolved into a narrow issue as to whether, when the fatal shot was fired in the kitchen at the father, Mr Bamber senior, the rifle used had on it a silencer, it being accepted that if there was a silencer on it at that time the prospects of the sister being the murderer were nil.

12. The approach that has been taken, and very properly taken by both the Commission to the way in which the case has been put, and by Mr McKay, on behalf of Mr Bamber, has therefore concentrated on this one aspect. The argument before us has proceeded on a first assumption, namely that if there was evidence that the silencer was on the gun when the fatal shot was fired, then there would be little doubt about the safety of the conviction. But if there was no silencer on it, then there was, for the purposes of this application, sufficient that it might be necessary to refer it to the Court of Appeal on the basis that there was a real possibility that the sister was the murderer. I say that at the outset because it is extremely important to understand that assumption upon which this judicial review is proceeding.

13. The question as to whether the silencer was used or not turns again on a relatively