for a basic funeral, and have to battle to get clear information from funeral directors on costs and expenses While struggling with grief, many people are unclear on what is a fair price to pay for a funeral – the attendant shame of asking whether prices need to be so high puts vulnerable people in an even worse financial position. People told QSA of funeral directors asking whether their deceased relative "deserved better", with staff pressing relatives to pay more for embalming as it was "dignified for the deceased". One woman contacted QSA when she was quoted £7,500 for a funeral by a firm who told her that was standard: the charity were able to find a provider for £1,500 nearby. But that's the issue – death isn't a routine enough event for us to be familiar with the costs and implications of funerals, so QSA is calling for all funeral directors to sign its Fair Funerals Pledge, promising transparency in pricing and ethical behaviour. Families can then look online to see which local funeral directors have committed to be fair and honest about the costs involved.

That helps – but the problem of funeral poverty runs deeper, as QSA's ongoing campaigning shows. Jacqui contacted the charity when her partner died suddenly. She was struggling to pay for his burial, and applied to the government's social fund for help with funeral costs. Even when you apply for a social fund funeral payment, it only covers around 35% of the cost, then takes three weeks to come through if successful, by which time the funeral has passed. But for Jacqui, there was a further shock: because she was on a zero-hours contract, she was deemed to be in work and therefore didn't qualify for assistance, despite earning almost nothing. When she called the DWP helpline, to ask how she could pay for her partner's funeral, she was told "let the council dispose of him". The Social Fund has been slashed from £294m in 2010 to just £74m today, and the funds are not protected, meaning councils can raid them to relieve health and social care pressures in their area. The Fair Funeral Pledge is a small step to address a growing and horrific problem. But the government also need to accept that people deserve dignity after their death, and that with the decimation of the social fund, and welfare cuts entrenching inequality, their policies are causing the perfect conditions for funeral poverty to flourish. We know huge swaths of the population can barely afford to live. Now people can't afford to die, either.

Police To Pay £5,000 Damages For Wrongful Shoplifting Arrest

Police in Northern Ireland have lost an appeal against being ordered to pay £5,000 compensation to a widow who was wrongly arrested for shoplifting. A High Court judge backed a previous ruling that Helen Curlett was entitled to the award for being detained at home and taken into custody. Mrs Curlett, from Ballyclare, County Antrim, was released without charge. Lawyers for the police had argued that awarding damages would restrain their ability to arrest crime suspects. However, the judge rejected the challenge, saying that officers had failed to consider alternative options such as asking Mrs Curlett to attend voluntarily for interview.

Hostages: Jamie Green, Dan Payne, Zoran Dresic, Scott Birtwistle, Jon Beere, Chedwyn Evans, Darren Waterhouse, 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, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, 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, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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MOJUK: Newsletter 'Inside Out' No 534 (18/06/2015) - Cost £1

Kevin Lane Appeal - Barrister Outlines Alternative Scenario *Duncan Campbell, Guardian*

Barrister draws 'compelling picture' for judges that implicates pair who were jailed after being convicted in 2005 of another murder. Two men were named in the court of appeal on Wednesday as the likeliest suspects for a contract killing for which another man has served 20 years in prison. The court also heard that a corrupt detective played a major part in the conviction of Kevin Lane, who was jailed for life at the Old Bailey in 1996 for the murder of Robert Magill. Magill was shot dead in 1994 by a hitman in Chorleywood, Hertfordshire as he was walking his dogs. Two men fled the scene in a BMW car, which was later found. Kevin Lane, a former boxer and bouncer, and Roger Vincent were charged in 1995 with the murder.

The main evidence against the two men revolved around fingerprints found on bin liners in the car. Vincent was cleared but Lane was convicted on a 10-2 majority after a retrial and has been protesting his innocence ever since. Lane, 47, who was released from prison in January, was in court for the hearing but not asked to give evidence. Joel Bennathan QC for Lane told Lady Justice Rafferty, Mr Justice William Davis and Judge Inman QC that some appeals contained evidence of police corruption and others indicated the likely perpetrators. "This application has both these elements," he said. The court heard that DI Christopher Spackman, of Hertfordshire police, a key officer in the case, was convicted in 2003 of conspiracy to steal £160,000 and of misconduct in a public office. He was jailed for four years. He had also forged documents and witness statements, been involved in cannabis cultivation and had held "off the record" meetings with Vincent, the court heard. He also told the original trial that some witnesses were untraceable when this was not the case.

Joel Bennathan told the court that, in 2005, Roger Vincent and his close friend, Dave Smith, had been convicted of the contract killing of Dave King, a drug dealer, who was shot dead with a Kalashnikov AK-47 outside a gym in Hoddesdon, Hertfordshire. King was suspected of being a police informer after being released on bail in a drug importation case. Vincent and Smith were jailed for life with minimum tariffs of 30 and 25 years respectively. "Both men were full-time criminals – they were like brothers," said Bennathan. "We say that they were professionally close and the profession was criminal ... This was a crude but effective killing", with many similarities to the murder of Magill. There was a "compelling picture" that Smith and Vincent had also carried out the Magill murder and had acted as a two-man team: "one drove, one shot". The court must have disquiet about what is going on here," said Bennathan, referring to the fact that Spackman was a corrupt officer with access to the case's exhibits and had links to Vincent and Smith. "In assessing the safety of the conviction, the court is entitled to put together what was known then and what is known now," he added.

Judgement was reserved. Previously, Spackman has denied any impropriety in the case and Vincent and Smith have denied the Magill shooting. Lane, nicknamed "Lights Out Lane" in his boxing days, spent many of his years in prison investigating the nature of the case against him and the law. He now works in the construction industry and lives in Kent. He was accompanied to court by his family, friends and supporters of the campaign to prove his innocence. His case was originally covered in the Guardian more than a decade ago. Lane has written a book about his experience, which opens with a quote from Arthur Schopenhauer: "Fate shuffles the cards and we play."

'Angola Three' Inmate to be Freed After 43 Years in Solitary Confinement

A judge in the US state of Louisiana has ordered the release of an inmate who has been in solitary confinement for more than 40 years. Judge James Brady also banned prosecutors from trying Albert Woodfox, 68, for a third time. He has been in solitary confinement since 18 April 1972 after a prison riot that resulted in the death of a guard. Woodfox was tried twice for the guard's death, but both convictions were later overturned. He denies all the charges. On Monday 8th June 2015, Judge Brady ordered the unconditional release of Woodfox. He also barred a third trial, saying it could not be fair. Prosecutors would appeal Judge Brady's ruling "to make sure this murderer stays in prison and remains fully accountable for his actions", a spokesman for the Louisiana attorney general said. Woodfox is the last remaining imprisoned member of a group of three inmates known as "Angola Three". The other two - Robert King and Herman Wallace - were released in 2001 and 2013 respectively. All three men were involved with the Black Panther Party, and said they were imprisoned for crimes they did not commit, with convictions only obtained after blatant mistrials. They were held in solitary confinement at the Louisiana State Penitentiary, which is nicknamed Angola after the plantation that once stood on its site, worked by slaves shipped in from Africa. The three men have been the focus of a long-running international justice campaign.

New Human Rights Claim in Longest-Running Extradition Battle *David Barrett, Telegraph*

An alleged murderer at the centre of Britain's longest-running extradition case has lodged a new legal case claiming his human rights will be breached by a "life means life" sentence in the United States. The Telegraph can disclose Phillip Harkins, who has been fighting extradition since 2003, has brought a challenge at the European Court of Human Rights in the wake of an earlier controversial ruling. Harkins' case sheds new light on the way human rights laws are preventing offenders being brought to justice. The Government announced last month that plans to repeal Labour's Human Rights Act and replace it with a British Bill of Rights will not take place in the first year of the new Parliament as David Cameron, the Prime Minister, faces potential backbench rebellions over the issue. Harkins, a convicted criminal, claims in the new case that the prospect of "life imprisonment without parole" in the US would breach his rights because in 2013 the European court ruled against "whole life" sentences.

Harkins, 36, is wanted in the US for the allegedly shooting Joshua Hayes in the head in Florida in 1999 during the course of a robbery. He was arrested and charged but the Scot came back to Britain where in 2003 he was arrested for a serious driving offence. Harkins was convicted of causing death by dangerous driving of 62-year-old Jean O'Neill in Greenock and sentenced to five years' imprisonment. Extradition proceedings began in March 2003 but Harkins remains in jail in Britain after a series of legal challenges. He has already made an earlier unsuccessful appeal to Strasbourg judges on another aspect of the case.

Harkins' new claim hinges on the 2013 victory in Strasbourg by Jeremy Bamber, who was jailed for murdering five members of his family in Essex in 1985, and two other convicted murderers. They won a highly controversial ruling which said jailing an offender for life without possibility of parole represented "inhuman and degrading treatment" under Article 3 of the European Convention. Bamber brought the appeal with Douglas Vinter, from Middlesbrough, who admitted killing his wife Anne in 2008, and Peter Moore, who killed four gay men in North Wales in 1995. A ruling earlier this year appeared to moderate the court's earlier ruling on the Bamber case. The British Government has been asked to formally respond to Harkins' claim before a decision is made on whether the case will proceed to a full hearing.

English, felt betrayed by Burke. So did the Revolution's principal American supporter Thomas Jefferson. They thought that everything in Burke's past should have made him their ally. This is true, and I think it lends a special interest to his criticisms of the values of 1789.

Burke objected to the universality claimed for the Déclaration, chiefly because he distrusted human reason. If the rights of man are anterior to all human institutions, they are a purely intellectual construct, to which the collective experience of men contributes nothing. This was the notion to which Burke objected. Political systems reflected the cumulative wisdom and experience of the societies which produced them. What struck the revolutionaries as unreasoned prejudice was often the fruit of the inarticulate experience and historic compromises of the past. "We are afraid," Burke wrote, "to put men to live each on his own private stock of reason, because we suspect that this stock in each man is small, and that individuals would do better to avail themselves of the general bank and capital of nations and of ages."

Lest it be thought that this was simply an Anglo-Saxon conspiracy, it should be pointed out that a very similar difference of opinion arose among the membership of the French National Assembly and within the committee charged with drafting the Déclaration. The text was attacked from the right by conservatives and royalists like Lally-Tollendal and Mounier, who believed that the document should be based on the values, traditions and historical experience of France. They commended the English Bill of Rights of 1689 as an example. Revealingly, they were often referred to the le parti anglais. Marat, writing from the left, protested in very similar terms against what he called the Déclaration's "metaphysical speculations". A shorter, more down-to-earth text modelled on the American Declaration was drafted by Lafayette. But, as is well-known, the Déclaration in its final form was substantially the work of Mirabeau and of that great bugbear of Burke's, the abbé Sieyès. They rejected the American Declaration as being too parochial, too deeply rooted in American experience. Mirabeau was quite open about this. He wanted what he called "a code of reason and wisdom to be held up as a model for other nations."

Not all of Edmund Burke's arguments command respect today. Some of them are purely rhetorical. But he surely put his finger on a critical dilemma, which is still with us. The world of politics is divided into two camps. There are those who seek to found public institutions on moral principle. And there are those who regard public institutions as a mechanism for reconciling the competing interests and prejudices of humanity. The former undoubtedly has the more powerful emotional appeal. But the latter reflects a historical truth which has a habit of reasserting itself and is not easily ignored. *Lord Sumption, Lancaster House, 11 June 2015*

Too Poor To Die: How Funeral Poverty is Surging in the UK *Dawn Foster, Guardian*

The manager of a north Liverpool credit union recently told me that the most shocking fallout of the recession and austerity was the sheer volume of people calling because they were unable to bury their loved ones. "People call from the hospital, because they can't pay the £1,000 to get the undertakers to release the body, these people, they're under 50, that's no age to die." The sharp rise in funeral poverty is one of the grimmer trends in our unequal island: in the past decade, funeral costs have risen by 80%. Wages haven't. The average funeral now costs £3,163 nationally, and £4,836 in London. If you're on a low income, the cost of a sudden death is far beyond your modest means, and life insurance can seem an unnecessary luxury when you're struggling to heat your home and feed your children.

The families who contact Quaker Social Action (QSA), a small charity which offer advice on funeral poverty through its "Down to Earth" scheme, aren't seeking a lavish send-off for their loved ones, just the ability to bury them at all. All too often, relatives are struggling to raise the necessary capital

ed by the King's warrant. Indeed, that remained the case until the seventeenth century. The Déclaration was intended to state the fundamental principles binding on the state. But Magna Carta has never been regarded in England as fundamental law, or as imposing any limitation on the power of the legislature. Although the 39th and 40th articles are among the very few articles of Magna Carta which remain in force today, the Appellate Committee of the House of Lords held as recently as 2009 that it did not prevent the wholesale deportation by the British Crown of the population of the Chagos Islands so as to create a military base. This was because the Crown was the legislative authority for the colonies and its decrees were law. Therefore what was done, however outrageous, was by definition done according to the law of the land.

Magna Carta is one of those documents which is important not so much because of what it says as because of what people wrongly think it says. The modern perception of the Charter as the source of all our liberties was largely the invention of Sir Edward Coke, the seventeenth century lawyer, antiquarian and politician who was one of the leaders of the opposition to James I and Charles I. Coke, who was widely regarded as the most learned lawyer of his day, rescued Magna Carta from obscurity and transformed it from a somewhat technical catalogue of feudal regulations, into the foundation document of the English constitution. It is really Coke's idea of Magna Carta that has been exported to the world, and not the version that King John or his barons would have recognised.

The libertarian tradition in England is one of this country's great contributions to the development of the modern world. But its power does not depend on its antiquity. One can firmly believe in it without having to fix its origins in the early thirteenth century. Our libertarian tradition actually dates from the constitutional settlement which followed the civil wars of the seventeenth century and the deposition of King James II in 1688. Magna Carta frankly has nothing to do with it.

The French Déclaration of 1789 is the only one of these two documents that speaks to us in the 21st century. It has a good claim to be regarded as the founding document of international human rights. It is significant not only for the values which it proclaims, also because of the objections that it has provoked ever since its first appearance. These divisions go, I think, to the heart of some of the modern dilemmas about international human rights. The Déclaration begs many questions. But they are among the most important and profound questions of the modern age.

The Déclaration's critics have focused mainly on two related points: its claim to universality and its claim to fundamental status for the rights which it declares. Rights are claims against the community. Both of these depend on the idea that human rights are anterior to society and inherent in our humanity. The alternative view is that rights are claims against the community, which exist because they are consonant with its collective values. They necessarily have a social context. They cannot therefore exist in the abstract, or attach to men and women simply by virtue of their humanity. Rights, however fundamental, are the creation of social institutions. Their legitimacy, according to this view, depends not on their absolute moral value but on the authority that each society chooses to give them. They may therefore differ from one society to another. They are not absolute and not universal. They are not icons.

The chief contemporary exponent of this view was Edmund Burke, whose Reflections on the Revolution in France was published in 1790. Burke has gone down in history as the philosopher of English Toryism, largely on the strength of the Reflections. In fact he was neither English nor a Tory. He was an Irishman, a Whig, a political reformer, an opponent of slavery and of British imperialism in India and Ireland, and a champion of the American Revolution. Tom Paine, the author of The Rights of Man and the most powerful contemporary advocate of the French Revolution writing in

Further Cuts to Legal Aid Fees for Criminal Solicitors *Owen Bowcott, Guardian*

Legal aid fees for criminal solicitors will be cut by 8.75% and the number of contracts for attending police stations and magistrates court reduced by two-thirds, the Ministry of Justice has confirmed. The department's first major spending decision since Michael Gove became justice secretary triggered protests from lawyers who had hoped to avoid economies left unresolved from the previous parliament. The decision to go ahead with most of the savings outlined by former justice secretary Chris Grayling was greeted with dismay by professional bodies who warned that firms would be forced to close. Separate planned cuts to advocacy fees have, however, been suspended. A written parliamentary statement from Shailesh Vara, the minister responsible for legal aid, said the 8.75% fee reduction – the second within a year – would come into force on 1 July. The number of contracts for providing duty lawyers to advise suspects detained in police stations or defendants at magistrates courts will also be reduced from 1,600 to 527. Whether fewer contracts will result in fewer lawyers is not yet clear. The MoJ spent £1.7bn on all criminal and civil legal aid in 2014-15. It has fallen sharply over recent years. Vara claimed the changes would "preserve access to justice and high quality advocacy". Last week, the Treasury announced that the MoJ would have to slice £249m out of its annual budget.

The president of the Law Society, Andrew Caplen, said the new round of cuts would undermine the criminal justice system. "We are deeply concerned not only for the immediate future of the justice system, but for its continued survival in years to come," he said. "Criminal legal aid solicitors are critical for ensuring that anyone accused of wrongdoing has a fair trial and yet few young lawyers see a future in this work. The government's cuts could undermine the criminal justice system to the point that it may no longer deliver fair outcomes. Twenty years without any increase in fees, followed by two sets of cuts since 2010, had already pushed firms' viability to breaking point. Now many solicitors' practices undertaking this vital work in communities around the country will be forced to close."

Jonathan Black of the London Criminal Courts Solicitors' Association said: "We have over the last two years heard a catalogue of real examples of defendants and victims suffering as a result of cuts in legal aid and access to justice. "[The justice secretary] is proceeding despite being aware of this and the warnings issued by experts. There is no further fat to be cut, let alone meat or skin – we are cutting deep into the bone. The level of unrepresented parties both in police stations and in courts will simply increase. In the week in which we commemorate the 800th anniversary of the Magna Carta the government chooses to confirm its intention to proceed with this dangerous project."

Alistair MacDonald QC, chairman of the Bar Council of England and Wales, said: "The Bar Council continues to have grave concerns about the effects upon solicitor colleagues of further fee cuts and the implementation of the dual contracting scheme. We remain convinced that these measures are likely seriously to damage access to justice and the provision of high-quality advocacy services in England and Wales." However, he welcomed one development: "We are pleased that the MoJ has agreed not to proceed with the cuts to the advocates' graduated fee scheme.

Tony Cross, chairman of the Criminal Bar Association, said: "The Criminal Bar Association regrets the decision of the Ministry of Justice to press ahead with the duty provider scheme and to impose further fee cuts on hard pressed litigators. [Our] executive will be discussing our response at the earliest opportunity, including further consultation with our membership." Last month, criminal barristers voted overwhelmingly to stage a new round of mass walkouts if the cuts went ahead.

In a separate development, lawyers for the official solicitor to the senior courts have

launched a judicial review challenge to the way in which the exceptional case funding scheme is working in legal aid cases. The Public Law Project has been instructed on behalf of a vulnerable individual, known only as "IS", who claims that he cannot bring a claim unless he is represented. The MoJ insists that the exceptional funding scheme is working as intended. Vara said: "Maintaining access to justice is absolutely vital and remains at the heart of our reforms. We cannot escape the continuing need to reduce the deficit, so we must ensure our entire criminal justice system performs more efficiently. We spend more per person on legal aid than many other similar systems – for example, twice as much as Australia, Canada and the Republic of Ireland. "The continuation of the reforms started by the coalition government will make sure our criminal legal aid system delivers value for money to taxpayers, provides high-quality legal advice to those accused of a crime, and puts the profession on a sustainable footing."

Jean Charles de Menezes Arguments Heard in Strasbourg *Owen Bowcott, Guardian*

A panel of more than 20 judges at the European court of human rights (ECHR) has heard arguments that Metropolitan police officers should be prosecuted for the killing of Jean Charles de Menezes. Nearly a decade after the Brazilian electrician died at the hands of officers hunting for suspected suicide bombers, lawyers for his family have taken their campaign for justice and accountability to Strasbourg. De Menezes died on 22 July 2005; his death came a fortnight after four men detonated devices on London's transport system, killing 52 other people, and a day after the further failed attacks of 21 July, when five bombs failed to explode at Tube stations and on a bus. Two members of the Met's armed unit, CO19, opened fire centimetres away from De Menezes's head as another officer pinned him into a seat on an underground train at Stockwell station. The Crown Prosecution Service (CPS) decided the following year that no individual should be prosecuted. In December 2008 an inquest jury returned an open verdict after rejecting the official account of the shooting. The Met was subsequently convicted of health and safety failures at the Old Bailey, fined £175,000 and ordered to pay £385,000 costs.

The appeal has been brought by his cousin, Patricia da Silva Armani, a Brazilian national who lives in London. She said: "For 10 years our family has been campaigning for justice for Jean because we believe that police officers should have been held to account for his killing. Jean's death is a pain that never goes away for us. "Nothing can bring him back but we hope that this legal challenge will change the law so that no other family has to face what we did." The court's decision will be reserved. In the political context of the Conservative government's pledge to renegotiate the judicial link with the Strasbourg court, the outcome of such a high-profile case could be politically significant.

Harriet Wistrich, a solicitor at the London law firm Birnberg Peirce, who represents the family, said that the CPS decision not to bring any prosecution was based on an assessment that there was effectively less than a 50% chance of conviction. Hugh Southey QC, who argued the case at the ECHR, challenged the adequacy of the UK's definition of self-defence since the officers who shot De Menezes only had to show that they had an honest belief – as opposed to an honest and reasonable belief – that the use of force was absolutely necessary.

Deborah Coles, who attended the Strasbourg hearing alongside the family, said: "This case shines a spotlight on the issue of police accountability and the inequality and injustice that prevails. A democratic society needs a criminal justice system that ensures scrutiny and accountability of the police and ensures that prosecutions for human rights violations are brought in appropriate cases. Public confidence in the police is fundamental to democratic policing

were the rule of law and freedom of thought and expression, which were the essential parts of the classic liberal agenda of the rational Enlightenment; and democracy, the "general will" which the draftsmen derived from Rousseau and was destined to destroy the other two.

Now, where does Magna Carta fit into this scheme of things? At this point, I have a confession to make to you. I am a Magna Carta sceptic. I have no problem about the values which the charter is commonly supposed to express. But I have the utmost difficulty in finding them anywhere in the charter. There are no high-flown declarations of principle here. No truths are held to be self-evident. No rights are declared to be inalienable. No claims are made to universal validity. Medieval latinists were perfectly capable of flights of rhetoric, but there aren't any in Magna Carta. The document is long. It is technical. And it is turgid.

The difference between the Charter and the Déclaration is more than a matter of style. Unlike the Déclaration, Magna Carta was never intended to be a general statement of moral or political, let alone human rights. It was essentially a legal text, which addressed a large number of miscellaneous grievances against the way that King John and his two immediate predecessors had governed England. In particular, it sought to define the feudal obligations associated with the occupation of land, because of the way that the Angevin Kings had exploited the uncertainty about these obligations in order to raise money. Magna Carta may have been an ambitious document for its time, but it is nothing like as ambitious as the Déclaration des Droits de l'Homme et du Citoyen. Mrs Thatcher's belief that a purer concept of human rights, undistorted by French intellectualism, could be found in Magna Carta, is really very wide of the mark. Magna Carta is a document for 1215, and not for all time. And it is a document for Englishmen, not for humanity. Indeed, it is not even a document for all Englishmen but only for the small minority who were free, male and relatively rich.

Only two ideas which can properly be called constitutional can be extracted from Magna Carta. One is the idea of representation, which makes its first appearance in the original version of the Charter, sealed by King John in 1215. The 14th article requires the King to obtain the consent of the "common counsel of the kingdom" before levying any general taxation. The 61st provides for a council of barons to supervise the enforcement of the charter. We do not know what kind of membership the barons had in mind for these institutions. If they had survived, they might perhaps have become the germ of the Parliament that was in fact created in very different circumstances half a century later. By a Frenchman be it noted. But these clauses were both stillborn. They were struck out of the charter when it was reissued in 1216 and 1217 and they never reappeared. They are not to be found in the version of 1225, which is the only text that has ever had any legal status in England. The second constitutional idea underlying Magna Carta is that the King was subject to law. This proposition, which is the foundation of the rule of law, was not, however, a new idea at the time of Magna Carta. It had been generally accepted for at least a century before 1215. The dispute between King John and the barons was about what the law was. No one doubted that whatever it was, the King was subject to it.

The famous 39th and 40th articles provided that no free man should lose his liberty or his property except by the lawful judgment of his peers or according to the law of the land. In 1215, these provisions reflected recent experience. They were directed against the arbitrary proceedings of King John's personal court, where he was in the habit of presiding with a group of cronies and courtiers over cases involving tenants-in-chief, i.e. the barons and other great men of the realm. They had very little wider significance. There was not much point in saying that you could not be imprisoned except according to the law of the land, when the law of the land said that a man could be arrest-

Magna Carta - The Document is Over Long, Technical and Turgid

In July 1989, the late Margaret Thatcher, who was in Paris to participate in the celebration of the bicentennial of the French Revolution, gave an interview to Le Monde. It was a characteristic performance. She rubbished the whole occasion as well as the historic event which it commemorated. The French Revolution, she declared, had not invented the idea of human rights. We, the English had done that, with Magna Carta nearly seven centuries before. The French version was simply a distortion of an ancient idea, a feast of abstract thinking concocted by vain and impractical intellectuals. This version of events is in many ways a travesty. But it is a very English travesty. It embodies two powerful English instincts: a feeling of English exceptionalism especially in matters constitutional; and a deep suspicion of Utopianism, and indeed of all abstract ideas.

Of course, the French Revolution did not invent the idea of human rights. The notion that there are some rights which are inherent in our humanity has its roots in the works of the stoics and of Christian writers of the middle ages. In eighteenth century Europe, it had been part of the common currency of political discourse since Locke and Diderot. Writing in the 1760s, the great English jurist Sir William Blackstone had identified the right to life and limb, personal liberty and personal property as absolute rights, belonging to every individual by "the immutable laws of nature". All the constitutional arrangements of the state, he thought, were ultimately directed to their protection. These ideas reappear in the American Declaration of Independence as well as in the second article of the Déclaration des Droits de l'Homme et du Citoyen. So the concept of innate human rights did not suddenly emerge out of thin air in 1789. It was the culmination of a long historical process. Nevertheless, the Déclaration is unquestionably the place where one looks for its most eloquent and complete expression. It has a simplicity and directness of language, a rhetorical force, which no other document of its kind can match.

In this and other respects, it would be difficult to find two political documents more different in tone or substance than the Déclaration des Droits de l'Homme and Magna Carta. Both of them can fairly be described as assertions of rights against the power of the state. That is why we are all here. Both of them have achieved iconic status in the societies which created them and internationally, a fact which has tended to shield them from critical examination. That is one reason why a conference dedicated to both of these famous instruments is very much to be welcomed. In that spirit, I hope that I may be allowed to make some provisional remarks, if only in order to provide some food for thought and perhaps some ideas for rejection in the course of the day.

The Déclaration des Droits de l'Homme is a succinct and forceful rhetorical text with two main objects. The first is to identify certain rights which can truly be regarded as fundamental. Article II lists them: liberty, property, personal security and freedom from oppression. The Déclaration did not claim to be enacting these rights into law. In the draftsmen's view they had always existed. The Déclaration merely claimed to have rediscovered them behind the cloak of ignorance and mental corruption cast over them by human institutions, specifically the institutions of the French ancien regime. These rights are characterised in the preamble as natural rights. By this was meant that they were not the creations of law or of any particular political or constitutional order. They were therefore incapable of being removed by law or any particular political or constitutional order. They were anterior to society itself. As the Greeks say of their holiest icons, they were acheiropoieton, not made by human hands. According to the second article, the object of all civil society is the protection of these natural rights. The second object of the Déclaration was to lay down the constitutional principles on which a state should be constructed if this was to be achieved. In bald summary, these constitutional principles

and must not be undermined by any suggestion that the rule of law does not apply equally to all citizens including those in uniform." A spokesman for Inquest, a charity that provides advice on contentious deaths in England and Wales, said that the failure to bring criminal prosecutions against police officers responsible for the shooting raises questions about how the state and its agents are held to account for killing its citizens. Since 1990, the organisation points out, there have been nine unlawful killing verdicts at inquests into deaths involving the police and one unlawful killing finding recorded by a public inquiry. None have yet resulted in a successful prosecution. Over the same period, Inquest said, there have been 995 deaths in police custody or following police contact in England and Wales and 55 fatal shootings by police officers. The CPS has declined to comment before the judgment.

IPCC Will Not Investigate Orgreave Police Action During Miners' Strike

David Conn, Guardian: The Independent Police Complaints Commission will not mount a formal investigation into allegations of criminal wrongdoing by police even though it has found evidence to suggest that police officers assaulted miners at the mass picket of the Orgreave coking plant during the 1984-85 miners' strike, then perverted the course of justice and committed perjury in the failed prosecutions which followed. Senior officers at South Yorkshire police, which commanded the Orgreave operation and conducted the prosecutions, privately acknowledged that many officers did overreact at Orgreave, and that there was evidence that they committed perjury, but did not want that misconduct made public. In a report to be published on Friday 12th June 2015, the IPCC said that the force's withholding of evidence about improper treatment of miners and perjury by officers, and its failure to investigate it, "raises doubts about the ethical standards of senior officers at South Yorkshire police at that time" and suggests they were complicit. However, after two and a half years' research into evidence relating to the bitter Orgreave confrontation and prosecutions which followed, the IPCC has decided not to investigate further.

Sarah Green, the IPCC's deputy chair, said that while she recognised "the seriousness of the allegations and their continuing effect on public confidence [in the police] in the affected communities", too much time has passed for the allegations of assault and misconduct to be pursued. Green told the Guardian that she accepted that the IPCC will be criticised for its decision, which follows a referral of the allegations by South Yorkshire police themselves in November 2012. The IPCC is running several major investigations, including into alleged South Yorkshire police misconduct following the Hillsborough disaster in 1989, and investigating the same force for its more recent handling of allegations of child sexual exploitation by grooming gangs. We aren't short of work in terms of current issues and previous issues which haven't been looked at before," Green said. "I accept we might be criticised for the decision not to investigate the Orgreave allegations, but that is the decision I've come to."

Former striking miners and their union, the NUM, Labour politicians and campaigners have condemned the decision. Ian Lavery, the Northumberland MP and former NUM president, described the report as "a nonsense and a whitewash". Yvette Cooper, Labour's shadow home secretary and leadership candidate, said the IPCC's decision "lets down" the Orgreave miners' families, and she questioned the IPCC's fitness to handle police misconduct allegations. Cooper called for an independent inquiry, potentially modelled on the full disclosure of police documents process overseen by the Hillsborough independent panel, and said of the IPCC: "If they are too limited to do the job, then someone else needs to. For too long there have been serious allegations about the way the miners were treated at Orgreave, but we have never had the truth."

The IPCC examined files relating to Orgreave including those held by South Yorkshire police and their solicitors, Hammond Suddards, and transcripts of the 1985 trial for riot and unlawful assembly which led to 95 miners being acquitted. The confrontation of 18 June 1984 was the most bitter and infamous of the miners' strike, with 8,000 pickets seeking to prevent lorries leaving the plant, near Rotherham, met by a 6,000-strong contingent of police drafted in from all over the country.

The IPCC's report notes that the South Yorkshire police officer in command accepted in court evidence that no warning was given before mounted police charged into the miners, and that much of the throwing of missiles by miners, claimed as a reason by police for charging, in fact happened after the charge. The report notes that BBC news footage was reversed to show the miners throwing stones before the police charged, an accusation the BBC has never officially accepted. Hospital records showed that contrary to the police story that they had responded to unprovoked violence, more pickets than police were injured, and they suffered serious injuries, including to their heads. The South Yorkshire police chief constable, Peter Wright, had previously decided with the force's prosecuting solicitor to bring charges of riot and unlawful assembly, which carried potential life sentences, if the circumstances warranted it. After the 18 June confrontation, 95 miners were charged, and ultimately none were convicted, as the main trial collapsed after police were cross-examined by defence barristers including Michael Mansfield.

The IPCC confirms reports from the time that one police officer may have forged another's signature as a witness to his statement, then both officers swore on oath that the signature was genuine. When the court raised the possibility of having the signature forensically examined, the report notes, "The original statement went missing from the court, in circumstances which remain unexplained." The officer whose signature was apparently forged was said to have given a "blatantly untrue" account in court, and an independent investigation by Staffordshire police concluded there was evidence of perjury. "The Director of Public Prosecutions accepted this was so," the IPCC report states, "but concluded it was not in the public interest to prosecute."

Thirty-nine miners charged at Orgreave sued South Yorkshire police for unlawful arrest and malicious prosecution, a case settled with the payment of £425,000 and no admission of liability. The IPCC found internal notes by Hammond Suddards, suggesting that senior officers at Snig Hill, the force headquarters, acknowledged that some miners had not been treated properly and there was some perjury by officers. "The note also raises further doubts about the ethical standards and complicity of officers high up in [South Yorkshire police]," the IPCC says in its report. Kevin Horne, one of the 95 acquitted miners and a member now of the Orgreave Truth and Justice Campaign, said he and other colleagues suffered a continuing injustice which required investigation. "Nobody has ever been held to account, and now the IPCC has said they cannot do it, we believe there should be a public inquiry and full disclosure of what happened. The fight will go on."

Minister Admits Prison Overcrowding Understated For Years *Alan Travis, Guardian*

Andrew Selous apologised to MPs on Thursday for incorrect statements made by the Ministry of Justice and in written answers to parliament that understated the scale of prison overcrowding every year since 2008-09. He said the errors in the published figures had arisen because of the way some prisons had counted "doubled-up" cells, where two prisoners are required to share a cell designed for one. The revised figures now take account of the number of all prisoners affected by overcrowding, showing that 24.5% of inmates in England and Wales were doubled up in 2013-14 compared with the previously published figure of 21.9%.

However, the MoJ said it could not say how many extra prisoners the revised figure rep-

fied that it is no longer necessary for the protection of the public that he should be detained in prison, directs his release. If the Board gives such a direction, then the Secretary of State is required to release him (see section 28 of the Crime (Sentences) Act 1997).

Complaint to ECtHR: Daniel Faulkner the applicant complained that his detention for a period of ten months pending his delayed Parole Board review, in violation of Article 5 § 4 of the Convention, was arbitrary and in breach of Article 5 § 1 of the Convention.

ECtHR are asking both parties to clarify: Was the applicant deprived of his/her liberty in breach of Article 5 § 1 of the Convention (see, for example, Erkalo v. the Netherlands, 2 September 1998, Reports of Judgments and Decisions 1998-VI; Rutten v. the Netherlands, no. 32605/96, 24 July 2001; Schönbrod v. Germany, no. 48038/06, 24 November 2011; H.W. v. Germany, no. 17167/11, 19 September 2013)?

HMP Stocken: Prison Officer Injured as 60 Inmates Riot

A prison officer has been injured after a riot at a jail in Rutland involving around 60 inmates, the Prison Officers Association said. The "serious incident of indiscipline" occurred at HMP Stocken after one prisoner assaulted an officer on 14 June, causing others to become "disorderly". Police and fire crews had to be called after several small fires were ignited during the disturbance. The incident was resolved around six hours after the disorder broke out when the riot squad were called. All 120 prisoners on the wing at the Category C prison were moved away from the area, with around 30 inmates transferred to other high-security prisons. Four prisoners have been taken to hospital and two prison officers have been treated for smoke inhalation following the riot. One officer who was assaulted was treated at hospital and later discharged. A Prison Service spokesperson said: "A serious incident of indiscipline on one wing at HMP Stocken was resolved by specially-trained prison officers.

HMYOI Wetherby - Safety Has Deteriorated

Wetherby 'Young Offenders Institution is' a closed facility for up to 276 boys under the age of 18. We last inspected the establishment in early 2014 but returned in January 2015 as part of our programme of annual inspection of all custodial institutions holding children. In 2014 we reported that outcomes at Wetherby were reasonably good or better against all of our healthy prison tests. This inspection found the prison going through a period of transition with the reopening of mothballed accommodation, the refurbishment of one of the wings and, not least, the appointment of a new governor. Outcomes for young people remained mainly good, although importantly this was not the case in respect of safety, where there had been a discernable deterioration.

Inspectors were concerned to find that: - boys spent too long held in court cells before being transferred to the prison, and many arrived late, which did not help with the important task of managing risk; - despite good supervision, nearly a third of boys reported victimisation from others, which was a significant increase since the last inspection; - there had been an increase in the levels of violence recorded and in the severity of that violence; - arrangements to support behaviour management had been ineffective in addressing these concerning trends; - the use of force had increased and the environment and regime in the separation facility remained unsuitable for children, although it was not used excessively; and - boys received slightly less time out of cell than previously and for a minority, unlock could be very limited, and inspectors found about 30% of boys locked up doing nothing during the working day. - Inspectors made 84 recommendations - 26 recommendations from the last inspection had not been achieved.

found, focusing in particular on cases concerning a delay in holding a hearing intended to address the question whether a convicted prisoner should be released. He considered that no clear guidance could be derived from the cases since none concerned an award for loss of liberty resulting from a violation of the speedy decision guarantee in Article 5 § 4. He explained: "74. In considering these awards, it is necessary to bear in mind that unlawful detention in violation of article 5(1) is often a particularly serious violation of the Convention, and is of a different nature from a violation of article 5(4). It is also necessary to take into account that the freedom enjoyed by a life prisoner released on licence is more circumscribed in law and more precarious than the freedom enjoyed by the ordinary citizen, as the European court has recognised (Weeks v United Kingdom (1988) 10 EHRR 293, para 40).

The risk that a prisoner may be recalled to custody, even where no further offence has been committed, is real, as the facts of Weeks and of Mr Faulkner's case ... amply demonstrate. Although the European court does not make precise adjustments to reflect inflation, it is also necessary to bear in mind that some of these awards were made many years ago. For these reasons, none of the awards which I have mentioned offers any clear guidance. That said, the most helpful is perhaps the award in the Kolanis case [Kolanis v. the United Kingdom, no. 517/02, ECHR 2005-V], since it related to a breach of article 5(4). As I have explained, in that case €6000 was awarded in 2005 as compensation for the loss of a real opportunity of release 12 months earlier from a psychiatric hospital. A higher award would no doubt have been appropriate if there had been a definite loss of liberty for 12 months; but a lower award would have been appropriate if, instead of a patient losing her liberty, the case had concerned a convicted prisoner who had lost an opportunity of earlier release on licence. The award in Weeks, considered in the context of the facts of that case, similarly suggests a level of awards for breaches of article 5(4) in respect of convicted prisoners which is much lower ...

75. Allowing for the various factors which I have mentioned, and in particular for the important differences between conditional release and complete freedom, the cases which I have discussed suggest that awards where detention has been prolonged for several months, as the result of a violation of article 5(4), could reasonably be expected to be significantly above awards for frustration and anxiety alone, but well below the level of awards for a loss of unrestricted liberty. It is however impossible to derive any precise guidance from these awards ... [A] judgment has to be made by domestic courts as to what is just and appropriate in the individual case, taking into account such guidance as is available from awards made by the European court, or by domestic courts under section 8 of the 1998 Act [the Human Rights Act], in comparable cases."

While, he said, an appellate court would not interfere with an award of damages simply because it would have awarded a different figure if it had tried the case at first instance, in the applicant's appeal the court was being invited to give guidance as to the appropriate level of awards in cases of this character. For that purpose, the court had undertaken a fuller analysis of the case-law of this Court than the Court of Appeal. Lord Reed concluded: "87. ... In the light of that analysis, and applying the general approach which I have described in paragraph 75, it appears to me that an award in the region of £6500 would adequately compensate Mr Faulkner for his delayed release, bearing in mind the conditional and precarious nature of the liberty foregone. That amount falls well short of the award of £10,000 made by the Court of Appeal. In the circumstances, it is in my view appropriate for this court to allow the Board's appeal and to reduce the award accordingly."

Relevant domestic law and practice: A prisoner detained sentenced to custody for life is entitled to be released on parole after the expiry of his tariff if the Parole Board, being satis-

resented as being held in overcrowded conditions. Three years ago, unrevised official figures showed that 24.1%, or 21,027 prisoners, were held in overcrowded conditions in 2011-12. This included 20,157 inmates who were doubled up in cells meant for one and a further 870 held three to a cell in accommodation designed only for two.

The prisons minister said: "The public should rightly expect this information to be accurate. Publication of clear, reliable figures on how many prisoners we hold in crowded conditions is an important part of making sure we can be held to account. It is therefore unacceptable that these incorrect figures have been published over the last six years and that these errors were not identified sooner," added Selous. "Since discovering these errors, we have taken urgent steps to ensure that figures will in future be subjected to rigorous quality control."

Frances Crook, of the Howard League for Penal Reform, welcomed what she called the new culture of honesty and accountability at the ministry. "Simple logic dictates that if two or three prisoners are sharing a cell designed for one, then all those people are being held in overcrowded conditions," she said. "We are pleased that the government's figures will now reflect this, as the Howard League has made this point repeatedly for many years. Holding men in overcrowded cells with nothing to do all day is never going to help them become law-abiding citizens on release, and it is important that the true scale of overcrowding will be made known. Only by knowing what the problem is can we work together to find a solution."

Wang Yam Appeal to Supreme Court Accepted

The Appellant was charged with the murder of author Allen Chappelow in 2007. At trial, the prosecution successfully applied to Ouseley J for large parts of the case to be heard 'in camera', where the public and press are not allowed to observe the proceedings ("the Order"). The Appellant's attempt to appeal the Order to the Court of Appeal was unsuccessful. He was ultimately found guilty of murder and his appeal against conviction was also unsuccessful. He now seeks to make an application to Strasbourg on the basis that holding parts of his trial in secret was a breach of his rights under Article 6 ECHR. In February 2014, Ouseley J refused to vary the Order to permit the Appellant to deploy information covered by the Order in his application to Strasbourg. The Appellant then applied for judicial review of Ouseley J's decision. Permission for judicial review was granted, but the Appellant's substantive application was dismissed. The Divisional Court certified a question for a 'leapfrog' appeal in accordance with s.1(2) AJA 1960, but refused permission to appeal. The question certified by the Divisional Court is whether there is a power under the common law or under section 12 of the Administration of Justice Act 1960 to prevent an individual from placing material before the European Court of Human Rights. If so, can the power be exercised where the domestic court is satisfied that it is not in the interests of state for the material to be made public even to the Strasbourg Court.

Stacey Hyde: 'There Are Many More Who Need Their Cases Re-Examined'

Sandra Laville, Guardian: Stacey Hyde cannot listen to the 999 call that graphically captures the moment she killed a man. It records the violent struggle six years ago when she was attacked by Vincent Francis and fought for her life. Hyde, a 17-year-old with serious mental health disorders at the time of the killing, was labelled a murderer after Francis died of multiple stab wounds at her hands. Jailed for life, she battled to prove that she had acted in self-defence when he turned on her, grabbed her by the throat, swung her around by her hair and smashed her against a wall. Hyde's conviction was quashed late last year by the court of appeal on the grounds that new evidence of her mental disorders substantially diminished her responsibility for the

offence. She offered a guilty plea to manslaughter, but the Crown Prosecution Service and Alison Saunders, the director of public prosecutions, refused it. Hyde, a young woman at high risk of suicide and self-harm, spent a further six months in prison and was forced to face a fresh murder trial at which she was acquitted and finally freed last month.

Speaking to the Guardian, Hyde said she believes the criminal justice system continues to fail vulnerable women who are victims of male violence. "I think the DPP should consider her position. She should resign. She really needs to look at the decisions she is making, because she is wrong," Hyde said. "You believe in the justice system, you think they will see the truth, and you will be home soon. But that isn't the case. If you don't have a good defence team who believe in you and fight for you like they were fighting for their own lives, you are going to be screwed. "I never considered myself a murderer. Whenever I talked to anyone inside – the prison officers, the other prisoners – we would talk about our cases and they would all say: 'Stacey, you are not a murderer. It was self-defence.'"

Like other vulnerable women wrongly jailed for murder after retaliating against violent men – such as Emma Humphreys and Sara Thornton, whose cases changed the law on provocation – Hyde had a difficult upbringing which featured neglect, abuse, childhood drinking, self-harm and adolescent mental illness. She was born and brought up in the Somerset town of Wells, where her mother often left her alone or with the neighbours while she worked at several jobs. Drinking and self-harming by 15 years old, Hyde had a teenage abortion and was raped three times.Her best friend, Holly Banwell, who was 10 years her senior, complained repeatedly to Hyde of the violence she suffered at the hands of her boyfriend Vincent Francis, 34. "She would come in all the time with sunglasses on because he had punched her in the face," said Hyde, who worked in the City Arms pub in the town. "She would wear hair extensions to cover the bald patches where he had pulled out her hair," she said. The crown accepted that there had been 27 incidents of violence towards Banwell by Francis. A previous girlfriend also described his violence at Hyde's retrial.

On 3 September 2009 Hyde was out with Banwell at a pub in the town, and the women eventually met Francis and returned to his flat late that night. Hyde crashed out in the bedroom. She woke to hear her friend crying for help in the early hours of the following day. "I remember parts of it as if it happened yesterday," she said. "But there are bits I don't remember at all, it's completely blank. I remember waking up and feeling really heavy, like everything was in slow motion, hearing Holly scream, scream for help, like, really scared. Then I remember running and seeing Vince attacking her and I remember jumping on his back to get him off her. And then … he's on top of me, he's strangling me, he's so angry and I thought: 'That's it, I'm going to die.' Then he is coming at me, it's all dark and I'm screaming and screaming and I know I'm about to die. And he has got something in his hand. I told the police when they found me he had a knife, and then I remember having my hands on my head and seeing Vince on the floor and there was blood and everything seemed silent, everything just stopped. Then there's a policeman putting his arms around me in the kitchen. I remember crying and crying and wanting to die. I was saying: 'He tried to kill me and Holly.' Later on they told me they had found me in the kitchen and I was about to stab myself. I was in shock."

The violent struggle which spilled into the hallway was recorded by a 999 operator after Banwell phoned the emergency services to call for help. She told the operator, against the backdrop of Hyde's high-pitched screams: "My boyfriend is smashing, beating up my friend. She's a girl. I need the police." Hyde was charged with the murder of Francis. She pleaded not guilty on the grounds of self-defence, but was convicted in 2010 at Bristol crown court and jailed for life with the recommendation she serve a minimum of nine years. Just 18, she

wounding. The Parole Board directed his release on 22 April 2010 and he was then released. On 13 June 2011 his licence was again revoked following his arrest on suspicion of having committed an offence of grievous bodily harm. He was subsequently acquitted of that charge.

The domestic proceedings: Meanwhile, in autumn 2008, the applicant commenced judicial review proceedings against the Secretary of State and the Parole Board seeking damages for the delay in holding the hearing. He relied on Article 5 § 4 of the Convention. The applicant was granted permission to bring proceedings on 13 October 2008. On 5 June 2009, the claim was dismissed by the High Court. Leave to appeal was granted by the Court of Appeal on 27 October 2009.

On 14 December 2010 the Court of Appeal handed down its judgment. After carefully reviewing the facts and the individual periods of delay encountered, it concluded that there was a delay of ten months, from March 2008 to January 2009, in the holding of the Parole Board hearing which was unjustified and for which the Secretary of State was responsible. This delay prevented the applicant from having the lawfulness of his continued detention decided in accordance with Article 5 § 4. On the question of damages, the court was satisfied that the applicant had shown, on a balance of probabilities, that he would have been released had the review taken place in March 2008. Damages on the basis of a loss of liberty were therefore appropriate.

In its judgment of 29 March 2011 on the amount of damages to be awarded, the court considered a number of just satisfaction awards in cases before this Court in which breaches of Article 5 § 4 were found. It distinguished between cases where the delay had merely led to feelings of frustration and those where it had been established that, but for the delay in the holding of the hearing, the applicant would have been released earlier. It awarded the sum of 10,000 pounds sterling ("GBP") by way of compensation for the loss of ten months' conditional liberty.

The applicant sought leave to appeal to the Supreme Court on the ground that the award was inadequate. The Parole Board sought leave to appeal on the ground that the award was excessive. Leave was granted, and the applicant was in addition given permission to argue that his detention after March 2008 constituted false imprisonment at common law or a violation of Article 5 § 1 of the Convention. In respect of his latter argument, he relied in this Court's findings in James, Wells and Lee v. the United Kingdom, nos. 25119/09, 57715/09 and 57877/09, 18 September 2012.

In its judgment of 1 May 2013 the Supreme Court unanimously rejected the applicant's appeal and allowed the appeal of the Parole Board, reducing the damages award to GBP 6,500. As regards the alleged violation of Article 5 § 1 of the Convention, Lord Reed, giving the leading opinion, observed that Article 5 § 4 provided a procedural entitlement designed to ensure that persons were not detained in violation of their rights under Article 5 § 1. However, he added, a violation of Article 5 § 4 did not necessarily result in a violation of Article 5 § 1. He considered this Court's judgment in James, Wells and Lee, cited above, not to be directly relevant to the applicant's case since that judgment concerned lack of access to rehabilitation courses and the just satisfaction awards made were for the feelings of distress and frustration resulting from continued detention without access to courses, and not for loss of liberty. Lord Reed noted that the delay in the applicant's case appeared to have been the result of errors by administrative staff, "of a kind which occur from time to time in any system which is vulnerable to human error". While it was extremely unfortunate that the errors had occurred and had resulted in the prolongation of the applicant's detention, they were not of such a character, and the delay was not of such a degree, as to warrant the conclusion that there had been a breach of Article 5 § 1.

On the matter of damages for the violation of Article 5 § 4 of the Convention, Lord Reed reviewed relevant case-law of this Court where a violation of Article 5 §§ 1, 3 or 4 had been

section 7 of the Data Protection Act 1998 ("DPA"). The Commissioner claims that Mr Kololo 's request is an abuse of process because it is said to be an improper attempt to use the DPA to circumvent provisions of the Crime (International Co-Operation) Act 2003 ("CICA") and says that the Court should in any event, as a matter of discretion, refuse to order compliance with the request.

It was apparent that because the Commissioner had defended these proceedings on the basis that the request was an abuse of process there had not been detailed consideration of the exemptions in section 29 or other relevant exemptions. In order to ensure that proper points (if there are any) may be taken in relation to the exemptions I will, as discussed with counsel at the hearing, record that this ruling requiring the Commissioner to comply with the subject access request may be met with a refusal to disclose specific data by reference to section 29 (although Ms Proops did not think such an eventuality likely in this case) or other relevant exemptions. In such an event a further hearing may be necessary. Mr Kololo had asked for a declaration to the effect that the Commissioner had acted unlawfully in refusing to comply with the subject access request. In circumstances where I am ordering compliance with the subject access request the granting of the declaration adds nothing to the claim, and might, at worst, be misinterpreted. Conclusion: For the detailed reasons given above Mr Kololo 's subject access request is not an abuse of process, and I order the Commissioner to comply with the subject access request made by Mr Kololo .

Daniel Faulkner - Damages for Delay in Parole Hearing

On 3 August 2001, at Stafford Crown Court, the applicant was sentenced to custody for life for a second offence of causing grievous bodily harm with intent. The minimum period ("tariff") was set at two years, eight and a half months, less time spent on remand. The tariff expired on 18 April 2004 and he became eligible for parole. The Parole Board subsequently reviewed his case in order to decide whether his detention remained necessary for the protection of the public. On 26 May 2005 it decided not to direct his release but recommended that he be transferred to open conditions. That recommendation was rejected by the Secretary of State.

A second recommendation to the same effect was made, following the applicant's second Parole Board review, on 31 January 2007 and rejected by the Secretary of State on 23 May 2007. At the conclusion of its statement of reasons for rejecting the Board's recommendation, the National Offender Management Service ("NOMS") wrote: "The Secretary of State has therefore decided that you should remain in closed conditions and your next review will conclude in January 2008." The accompanying letter stated: "It has been decided that your case will next be referred to the Parole Board for a provisional hearing to take place in January 2008. You will be notified by the Parole Board nearer the time about the exact date of that hearing. At your next review the Parole Board will consider your suitability for release by way of a paper panel. This consideration will take place approximately 12 weeks prior to your provisional hearing [in January 2008]. If you are not content with the paper panel's decision you may request that the case proceeds to the arranged oral hearing."

Because of a delay by the Prison Service in referring the case to the Parole Board and providing the necessary dossier of reports, the hearing took place only on 8 January 2009. On 23 January 2009 the Parole Board directed the applicant's release. He was released from prison four days later. On 22 May 2009 his licence was revoked following his arrest on suspicion of wounding and failure to attend a meeting with his offender manager. He remained in hiding until 17 October 2009, when he was returned to prison. He was subsequently acquitted of the charge of

was sent to the adult detox wing of Eastwood Park prison in Gloucestershire. "I was so scared. I remember one of the inmates high-fived me because she read about a girl stabbing someone 17 times. I was on my own in a cell, I was in shock, I was in denial. All around me women were screaming – there was noise everywhere."

Hyde is reluctant to talk about the "bad times" in prison, but says Holloway was the worst period for her. It was only with the support of women who became her "prison family" that she survived her incarceration, she says. Like her, these women had been jailed for murder and are fighting for appeals. They include Lizzie Donaghue, who was convicted of killing her husband, and Phillipa Hart, also convicted of murder. "I want to raise awareness of their cases," said Hyde. "There are others, many others, who need to have their cases re-examined. Really and truly I would like to go under a rock and hide away. But I'm not going to do that. I've met some most amazing women in prison and I promised to help them." Throughout her six years in prison, Hyde was deemed to be at high risk of suicide and self-harm and made attempts on her own life. It was through her aunt Julie Hyde that she contacted Justice for Women, and a new legal team – led by Harriet Wistrich of Birnberg Peirce – took up her case.

One thing she has had to face while in prison and during her trials is the way Banwell has failed to support her. At both trials she appeared on behalf of the prosecution. At the retrial in Winchester, Banwell described Hyde as a "cold-blooded murderer", a judgment the jury with their verdict clearly rejected. "I haven't spoken to her," said Hyde. "At first I felt sorry for her, I forgave her. I thought she was in denial, like a lot of women in the same situation as her. I don't know how a human being can be so cruel, and I don't see how the justice system can rely on such a witness." Hyde said her lowest point came in November last year when, after the court of appeal quashed her murder conviction, she heard she had to face a retrial. "I didn't understand," said Hyde. "I was in the cell, and I asked what was going on. They said, 'Your conviction has been quashed, but you are going to have a retrial.' I just thought: 'I can't do a retrial.' I'd lost my faith in the system. I thought: 'They are going to jail me again for murder.' "That was a really low point. I was sent into Holloway. I was alone. I spent the next four days crying in a cell. I had my 23rd birthday there. I got really down – I cut myself. It was the only way to get out of the pain."

Hyde's murder retrial began in the week Saunders announced that Greville Janner would not be charged with 22 counts of historical child abuse because he had Alzheimer's. "I was sat down and the prison officers were saying: 'There's that DPP, she's letting this man go, but there's all these innocent girls coming in here, and she doesn't care about them.' "And I thought, 'Here I am, under heavy medication, I've offered to plead guilty to manslaughter, and she is putting me on trial again for murder.' The prosecution of me throughout was defined by ego and arrogance and a determination not to admit they were wrong." Hyde's mental condition, which includes diagnoses of personality disorder and attention deficit hyperactivity disorder (ADHD), meant the court had to appoint an intermediary to sit in the dock and explain the process to her each day at trial.

What puzzles campaigners is why, after landmark cases like those of Humphreys and Thornton, Hyde was subjected to a retrial for murder, rather than the crown accepting her offer of a guilty plea to manslaughter. "It was cruel and unnecessary to make Stacey go through a retrial and remain in prison a further six months," said Wistrich. "She was an extremely vulnerable 17-year-old at the time of the offence. When you closely examine the evidence, in particular the 999 call, it is clear Stacey was being beaten up by Francis just before the stabbing took place, that she was screaming in terror – there was no evidence of premeditation or motive beyond that of responding to calls for help from his girlfriend Holly. The crown pursued this case with a vigour that was

totally disproportionate." Hyde, who is being supported by a family friend, said she thinks about Francis's family all the time. "I understand they will probably hate me forever because they see me as the reason that their loved one has died and it hurts them," she said. "But I just want them to know, I want them to know I'm sorry. I hope in time they can understand and forgive me."

The DPP did not comment on Hyde's call for her to consider her position. A statement from the CPS said it was right to put the murder allegation before a jury again. "It was not in dispute that Ms Hyde had left the scene of the original incident, and returned with a kitchen knife. "It was our case that this indicated an intent to kill or cause grievous harm rather than being a momentary loss of control or actions in self-defence of immediate danger. Where such a serious offence is alleged it is important that a jury decide on the matter. We respect their verdict."

Woman Strip-Searched and Left Naked Wins Damages From Met

Sandra Laville, Guardian: A woman who was forcibly strip-searched by five police officers and left naked in a cell while a camera broadcast the images into the custody suite has been awarded £37,000 in damages by the Metropolitan police. The woman, a young professional who worked in the PR industry, was arrested and taken into a police cell after being found in a distressed and confused state outside a club in Notting Hill, west London. One officer at Chelsea police station was heard to say to the custody sergeant: "Are we stripping this one?" The sergeant replied: "Yeah." The woman – then 22 - had been out at the Supper Club in Notting Hill at lunchtime one day in March 2011. She remembered sitting at the bar and having a drink, then later having another at her table. She was later found collapsed in the toilets, and was taken outside the club by her friends, where she became very distressed and was seen running around on the street. An ambulance and the police were called. When the police arrived the woman was arrested and taken to a cell. She said: "My drink had been spiked and the police should have helped me. Instead I remember being in a cell with strange men putting their hands on me and taking my clothes off. I believed I was being raped and remember screaming in fear."

The investigation into the incident revealed that the woman was held down in the cell by four male police officers and a female officer. Every item of her clothing was forcibly removed, and her bra was cut from the front of her body. She was then left naked in the cell for half-an-hour with the CCTV camera broadcasting the images back to the custody desk. She later woke in a hospital bed with no memory of what had happened and minus her clothes. Now 26, the woman said she believed the officers had treated her in the way they did because she was black. According to the woman, when she came round in hospital she spoke to the police officer at her bedside, who said she was very well spoken and asked where she was born. When the woman replied: "Hampstead", the officer radioed a colleague and was overheard saying: "I think we made a mistake.." The woman complained to police but was not satisfied by the Met police's response. She then took her complaint to the Independent Police Complaints Commission, which two years ago recommended that the custody sergeant face a gross misconduct hearing and five constables faced misconduct charges. But the Met did not issue gross misconduct proceedings against the custody sergeant. She faced proceedings for the less serious disciplinary charge of misconduct.

The IPCC said the custody sergeant had failed to make any record of the strip-search or to ensure it was carried out in accordance with codes in the Police and Criminal Evidence Act (Pace). The woman's solicitors brought a claim against the police for assault, breach of human rights and misfeasance in public office. Four years after the incident – and two years after

the IPCC found the police had breached Pace – the Met has agreed to settle with the woman and paid her £37,000 in damages. They have not issued an apology.

Claire Hilder, from Hodge Jones and Allen, which represented the woman, said: "My client was subjected to a humiliating ordeal at a time when she was clearly vulnerable and in need of medical attention. The officers involved acted in clear breach of professional regulations, taking an unjustified, callous and cavalier approach to the strip-search. This incident has caused her signficiant and lasting distress. These violations were totally unjustified and whilst we welcome this settlement my client has as yet received no apology."

The woman, who now works abroad, criticised the length of time it had taken to settle the issue. She said: "It has taken four years for the Metropolitan police to give me any acknowledgement that the way I was treated was unacceptable. I hope I can now put this behind me and get on with my life." A spokesman for the Met said: "The claim arose from an arrest in March 2011. Officers arrested a woman for a public order offence. She was charged and bailed to court for four counts of assault on a constable. The matter was discontinued due to insufficient evidence. We do not disclose settlement amounts."

Metropolitan Police 'Held Back DNA in Pirate Murder Case'

British police withheld DNA evidence that could have acquitted a Kenyan hotel worker sentenced to death for helping Somali pirates to kidnap a British woman and kill her husband, the condemned man's lawyer has claimed. Ali Kololo was the only person charged after six armed men stormed a beach resort in northern Kenya, killing the publishing executive David Tebbutt and kidnapping his wife Judith, who spent 192 days in captivity in Somalia. British police flew to Kenya to help the investigation but failed to share a forensic science report that could have exonerated Kololo, his lawyer Alfred Olaba said yesterday. Kololo was convicted of robbery with violence, which carries a mandatory death sentence, although Kenya has not executed anyone since the 80s. He was also convicted of kidnapping and sentenced to 7 years in prison. He was accused of leading the pirate gang to the £560-a-night resort, close to the Somali border, popular with celebrities including Sir Mick Jagger and Ewan McGregor.

However, Mr Olaba said the evidence included DNA reports that failed to place Kololo at the Kiwayu Safari Village at the time of the attack, in 2011. "We believe this is very useful for Mr Kololo's appeal," Mr Olaba said. "We believe this evidence was available [at the time of the first trial] but it was withheld by the Metropolitan police." He added: "This exonerates his presence at the scene of the crime." The evidence was released in March after the High Court in London ordered Scotland Yard to disclose the documents. It was due to be presented to the high court in Malindi yesterday, but Mr Olaba withdrew the application on technical grounds. He said he would resubmit it in due course. Vincent Monda, for the prosecution, said the evidence was "of no consequence" to the appeal. "All it is is DNA from items that were picked from the room where the deceased and his wife were taken," he said outside court. "It is inconclusive. It neither assists them — it doesn't exonerate him — nor places him at the scene." At Kololo's trial, Mrs Tebbutt said she did not recognise him as one of her attackers. British detectives also testified, despite rules banning British officials from helping foreign courts to secure capital punishment.

Ali Babitu Kololo V Commissioner of Police for the Metropolis

1) This is the hearing of a claim by the Claimant, Ali Babitu Kololo ("Mr Kololo "), against the Defendant, the Commissioner of Police of the Metropolis ("the Commissioner"). Mr Kololo claims that the Commissioner has wrongly refused a data subject access request made pursuant to