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MOJUK: Newsletter 'Inside Out' No 688 (16/05/2018) - Cost £1

GP falsely Accused Of Rape by 'Serial Fantasist' Not Entitled to Legal Costs

Scottish Legal News: A retired GP falsely accused by a "serial fantasist" of being involved in a paedophile ring has been told he will not be reimbursed £94,000 in legal costs he paid before the case collapsed, The Times reports. Dr Stephen Glascoe, 67, from Cardiff, spent most of his savings on his defence. The woman who made the allegations against him and other men has been given £22,000 in criminal injuries compensation and has requested more.

Charges against Dr Glascoe and four others were dropped in January this year, two weeks before trial, after concerns were raised about the complainant's relationship with her therapist and the police officer who led the case. Dr Glascoe spent more than £100,000 on lawyers as well as expert witnesses. However, he will only be given £7,280 from the Legal Aid Board and absolutely no contribution to the cost of his barrister. The complainant was given £22,000 from the Criminal Injuries Compensation Authority after she contacted South Wales police in 2012. However, she later refused to co-operate with them. In 2016 she made further allegations about being abused between the ages of three and 15 and claimed she had a pregnancy forcibly aborted and was made to torture other children. She has also applied for more compensation.

Christopher Clee QC applied for Dr Glascoe's funds to be reimbursed since the charges were the result of an "improper act or omission" by prosecutors. He said the prosecution should have been made aware of the poor credibility of the complainant by notes from 229 counselling sessions as well as her inappropriately close relationship with the detective investigating the allegations. Mr Clee added that while prosecutors had demanded to see the notes, which made clear the therapist "had exceeded any professional boundaries", having given the woman the idea she had been raped by five men, a senior police officer insisted on a "victim-centric position" The judge dismissed Dr Glascoe's costs application, saying he would have to prove no reasonable prosecution would have brought the charges, adding that the decision was "in line with enlightened modern practice".

INQUEST: Close Women's Prisons Now to Save Lives

A new report, Still Dying on the Inside, released today (02/05/2018) by the charity INQUEST, calls for urgent action to save the lives of women in prison. INQUEST highlights the negligible lack of action from successive governments to prevent deaths and puts forward a series of recommendations to close women's prisons by redirecting resources from criminal justice to community-based services. 94 women have died in prison since the 2007 publication of Baroness Corston's ground-breaking review of women in the criminal justice system. 2016 was the deadliest year on record with 22 deaths in women's prisons.

Still Dying on the Inside reframes deaths in custody as a form of violence against women, given many women's experiences of domestic violence, abuse and trauma. The report identifies serious safety failures inside prisons around self-harm and suicide management and inadequate healthcare provision. It also highlights the lack of action on recommendations arising from post-death investigations and inquests.

Deborah Coles, Executive Director of INQUEST said: "Since the Corston Review there has been little systemic change and for far too many women, prison remains a disproportionate and inappropriate response. The persistence and repetition of the same issues over an eleven-year period reveals nothing less than a glaring failure of government to act. While Ministers continue to drag their heels on the women's justice strategy, which was due in 2017, women continue to die. Government must work across health, social care and justice departments to dismantle failing women's prisons and invest in specialist women's services."

Key INQUEST recommendations in the report:

Redirect resources from criminal justice to welfare, health, housing and social care.

Divert women away from the criminal justice system.

Halt prison building and commit to an immediate reduction in the prison population.

Review sentencing decisions and policy.

An urgent review of the deaths of women following release from prison.

Ensure access to justice and learning for bereaved families.

Build a national oversight mechanism for implementing official recommendations.

Still Dying on the Inside - https://is.gd/q4zEpo

Regina V Sammi Tesfazgi

1. On 28th June 2017 in the Crown Court at St Albans the applicant, then age 21, was convicted of offences of aggravated vehicle taking, possession of a prohibited firearm and possession of an article with a blade or point. For these offences, together with a further offence of possessing an article with a blade or point, to which he had earlier pleaded guilty, he was sentenced to a total of 6 years' imprisonment.

2. His application for leave to appeal against conviction was refused by the single judge and was listed to be determined by way of renewal before this court.

3. This morning this court has received an email sent on behalf of the applicant by his supervising officer, which reads as follows: "I am emailing on behalf of the above prisoner, currently residing in HMP Belmarsh. He has requested that his court appearance be rescheduled due to the fact he has no representation. Due to the fact he is a multi unlock prisoner, he has not been able to access the phone to speak to his legal team."

4. The information before us indicates that this is the first occasion on which any attempt has been made by or on behalf of the applicant to seek representation. The time of this court is valuable. In the circumstances, and bearing in mind our substantive analysis of the merits of this application, which we will be determining in sufficient detail hereafter, we have no hesitation in rejecting that application for an adjournment in the circumstances in which it has been made.

Bondage Agreement

Scottish Legal New: Police who barged in on what they believed was a serious assault were left red-faced when it turned out to be a Japanese bondage class. A concerned neighbour raised the alarm after they saw what they thought were two men attacking a half-naked woman. However, it emerged that the resident was a teacher of "shibari", a type of BDSM that involves tying a person up with rope in particularly intricate patterns - with aesthetics as important as function. The police in Neustadt, Germany had intruded on one of the classes. In a statement headlined "Fifty Shades of Neustadt", the police confirmed that the couple "were well and in a good mood". The officers were invited to take part in the "training session" but "politely" declined the offer.

Alledged Drunk Pilots Win Appeal - After Blood Samples Were Destroyed

Scottish Legal News: Two airline pilots accused of preparing to fly a passenger jet while under the influence of alcohol have had the charges against them dropped following an appeal. Jean-Francois Perreault and Imran Syed challenged the admissibility of the evidence of the proportion of alcohol in their blood after samples which should have been supplied to them for independent testing were destroyed by prison staff while they were remanded in custody. A sheriff had rejected the appellants' challenge but the High Court of Justiciary Appeal Court allowed their appeal after ruling that the sheriff had erred, following which the Crown instructed that there should be "no further proceedings".

Admissible Evidence: The Lord Justice Clerk, Lady Dorrian, sitting with Lord Malcolm and Lord Pentland, heard that the appellant were each indicted inter for a contravention of section 93(1) of the Railways and Transport Safety Act 2003 in respect that on 18 July 2016 at Glasgow Airport, they performed an activity ancillary to an aviation function at a time when the proportion of alcohol in their blood was in excess of the prescribed limit.

But section 15(5) of the Road Traffic Offenders Act 1988, which relates to the taking and use of blood or urine samples, provides that where a specimen has been provided by an accused who subsequently asks to be provided with a sample, "evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen provided by the accused was divided at the time it was provided, and (b) the other part was supplied to the accused".

The court was told that following the giving of positive breath samples the appellants were both arrested and arrangements made for them to provide specimens of blood. In each case the specimen was divided in two parts, marked "A" and "B"; in each case the appellant asked to be supplied with one part; and in each case they selected the phial marked "B"; and in each case that phial was placed within the appellant's property held by the police.

On July 19 the appellants were remanded in custody and transferred to HM Prison Low Moss and their property, in sealed bags and including the relevant phials, was transferred with them. A week later the appellants were fully committed and released on bail, but the relevant phial "B" was not in the property returned to either of them.

'Unfair and oppressive' A preliminary issue was raised by each appellant objecting to the admissibility of evidence relating to sample "A" on the basis that sample "B" had not been supplied to them in terms of the 1988 Act; and that esto such supply had taken place, it would be "unfair and oppressive" at common law to admit it. Evidence was led to the effect that there was, within the prison generally, or within the health centre in the prison, no protocol in place in respect of the reception and storage of such samples.

At the time of the appellants' reception into the prison, the security manager, who in 20 years' service had never had experience dealing with such items, suggested that they be destroyed. The appellants did not agree to this, and the first appellant asked that the samples be stored in a fridge pending arrangements for their analysis. Instead, the security manager removed the items from the appellants' property and instructed a nurse to destroy them. She initially put them in her desk drawer, but on learning that the appellants had been released from custody, she destroyed the samples.

Meanwhile, on the day the appellants were remanded the agent for the first appellant e-mailed the Crown, and again the following day on behalf of both appellants, asking for the sealed phial "B" to be provided for testing, but to no avail. The agents, on August 2 and 3,

again asked the Crown for access to the samples for testing, but the request, and further correspondence, was not responded to until February 2017, when it was wrongly stated that the samples had been destroyed at the prison with the appellants' consent.

The sheriff held that the placing of the specimen within their property constituted "supply" in the sense required by section 15(5) of the Act and therefore concluded that the evidence relating to sample "A" was admissible, despite acknowledging that at no time was either accused handed the specimen. But the appeal judges ruled that the facts demonstrated that the appellants were never in possession or control of the samples and that the sheriff should have sustained the objection. Delivering the opinion of the court, the Lord Justice Clerk said: "In our view, the sheriff failed to take sufficient account of the factual circumstances in which the sample had been placed in the appellant's property; failed to take sufficient account of the appellants' lack of effective control over the samples, or to recognise that this was a factor which distinguished some of the cases upon which he relied from the present; and did not give due and adequate consideration to the purpose of the section. "As has repeatedly been pointed out, the question of whether there has been supply for the purpose of the section is one which depends on the circumstances of each case."

The court rejected the advocate depute's argument that to allow the appeal would be to hold Crown responsible for the acts of other, observing that, rather it was "to hold the Crown responsible for considering whether the circumstances are such as would reasonably enable the purpose of the section to be effected". The Advocate Depute also submitted that there were "public policy considerations" in play and that the court should not adopt an approach which might "encourage technical points" about compliance with the requirement to supply to be taken on "unmeritorious grounds".

However, the judges observed that the "predominant public policy consideration" was the "need to ensure that accused persons are not unfairly denied the right given to them by statute to obtain an independent analysis of a blood sample where this is a step that they wish to take". Lady Dorrian concluded: "In the circumstances of the present case there was no effective supply of the 'B' samples to the appellants in terms of section 15(5) of the 1988 Act. For this reason we were satisfied that the appeal must be allowed on the basis that the sheriff erred in repelling the objection taken in relation to the Crown's compliance with the requirements of section 15(5). We accordingly remitted the case to the sheriff with a direction that he should sustain the objection to the admissibility of the evidence of the proportion of alcohol found in the appellants' blood specimens." The court added: "In conclusion we note that it seems likely that the absence of any protocol or procedures for dealing with the supply of the samples to the appellants played a part in the unfortunate circumstances which are likely to have serious consequences...It is to be hoped that lessons have been learned by the Crown, Police Scotland, and the Scottish Prison Service."

Mentally Ill Subject to 'Physical Violence/Verbal Threats' Whilst Held Under Mental Health Act

May Bulman, Independent: The Mental Health Act 1983, which covers the assessment, treatment and rights of people with a mental health disorder, has come under scrutiny after it emerged growing numbers are being detained under the legislation'The inherent power imbalance means detained patients are vulnerable to potential coercive mistreatment, abuse and deprivation of human rights, leading to physical and psychological harm'

Mentally ill people are being subjected to "distressing experiences" including physical violence and verbal threats while detained under the Mental Health Act, a government-commissioned review has found. A report on the interim findings of the review, commissioned by Theresa May last October, warns people held under the act are vulnerable to "potential

coercive mistreatment", which can lead to physical and psychological harm. The Mental Health Act 1983, which covers the assessment, treatment and rights of people with a mental health disorder, has come under scrutiny after it emerged growing numbers are being detained under the legislation. The review, which will publish its formal recommendations for the government in autumn this year, has so far carried out a survey of more than 2,000 people and conducted new research as well as discussions with service users and carers.

Interim findings show that while the act can save lives, many held under it are subject to mistreatment, with two-thirds of those who expressed a strong view saying they were not treated with dignity and respect. "It is concerning that people often do not feel safe, treated with dignity or that their human rights are respected whilst detained," the report stated. "The inherent power imbalance means detained patients are vulnerable to potential coercive mistreatment, abuse and deprivation of human rights, leading to physical and psychological harm." It went on to say: "Throughout all of our engagement with service users and carers, we have been made aware of a wide variety of distressing experiences including but not limited to, experiencing or witnessing physical violence, verbal abuse and threats, bullying and harassment, sexual predation, pain-based restraint, coercive reward and punishment systems for access to open air, leave or family contact."

The review also highlighted that people of African and Caribbean heritage in particular were detained more than any other group, and highlights that services "do not always take proper account of people's cultural circumstances and needs". "Our focus groups with participants from BAME communities overwhelmingly told us they felt there was a lack of cultural awareness in staff and a need for culturally appropriate care. They also expressed concerns about racism, stigma, stereotyping and overmedication," it stated.

The researchers suggested the NHS should play a bigger role in healthcare services in police custody, saying the care of people in cells is "as much an issue for health and social care as it is for police". "We will consider whether NHS England should take over the commissioning of police custody healthcare services, or otherwise create a plan so that people in police custody get better care, and faster transfers out to NHS and social care services," the report stated. The findings also pointed to issues arising for children and young people being placed in hospitals far away from their families or detained during their time at school, resulting in delays in their education.

Presenting the interim findings, Professor Simon Wessely said: "People with the most severe forms of mental illness have the greatest needs, and continue to be the most neglected and discriminated against. Furthermore, they are also the group who are the most likely to be subject to the influence and powers of the Mental Health Act. We have an opportunity to replicate the advances made for people with common mental illness for those with more serious conditions."

Danielle Hamm, associate director of campaigns and policy at Rethink Mental Illness, said in response to the interim findings: "This landmark review confirms what we have long known: that there are serious problems with the Mental Health Act. "People who have been detained under the act have been telling us how it fails to protect their rights and dignity, and how they are kept out of decisions about their own care. Today is an important validation of this and a much needed call to action.

In recent years we have seen a welcome increase in mental health awareness. However, the rising tide hasn't lifted all boats. The review makes clear that those severely affected by mental illness, such as people living with schizophrenia or bipolar disorder, who are more likely to be held under the act, have been dramatically underserved. The review's interim report has clearly set out the need for change and it should be required reading for politicians, whose task now must be to commit to reform this important but outdated legislation."

'Not Only a Right, But a Duty': A History of Perverse Verdicts

David Hewitt, 'The Justice gap':Does anyone here remember Clive Ponting? In my mind's eye, I see him emerging into a media scrum outside the Old Bailey, his breath hanging on the chilly air. He is wearing a raincoat, even though it is only February, and he looks tired. The year was 1985, and Ponting, a civil servant, had just been acquitted of breaching the Official Secrets Act after a two-week trial. He was said to have leaked classified documents about the sinking of an Argentinian warship, the General Belgrano, during the Falklands conflict. Crucially, he admitted doing so. I think the implications of Clive Ponting's case are misunderstood, and so, I started to ask some questions.

The documents had been sent to Tam Dalyell, a Member of Parliament, and they showed that the Belgrano was heading away from the Royal Navy 'taskforce' when it was hit. That wasn't, however, the official version, and it contradicted the account the Prime Minister, Margaret Thatcher, had given. Ponting argued that he had acted in the public interest, which, he said, need not be the same as the interests of the government of the day. And he was acquitted even though the trial judge said he had no defence in law. Verdicts like Ponting's are sometimes described as 'perverse', in that they seem contrary to the evidence given in court, and they have a noble history.

In 1670, two Quakers, William Penn and William Mead, were charged with preaching to an unlawful assembly in Gracechurch Street in the City of London. The jury, however, rejected the trial judge's direction to convict. Then – though it was sequestered for three days without 'meat, drink, fire and tobacco,' or 'so much as a chamber pot, if desired' – it refused to change its mind. When each of the jurors was fined something like a full year's wages, several of them refused to pay. And when, as a result, those men were committed to prison, they obtained a writ of habeas corpus for their release and, a commemorative plaque records, 'established the right of juries to give their verdict according to their convictions'. The plaque is now in the Old Bailey, and I like to imagine Clive Ponting glancing up at it on his way out of court.

And perverse verdicts also have a noble history in America. There, where it is known as 'nullification', juries have exercised the power since before the Revolutionary War. They might have done so in 1865, when they acquitted 'Wild Bill' Hickok of manslaughter, and they certainly did so during Prohibition, when up to 60% of prosecutions resulted in acquittal. But American juries used nullification most controversially under the Fugitive Slave Act of 1850.

This was introduced to mollify southern states, when they threatened to secede from the Union, and it required that all escaped slaves be returned to their masters, even from the North. When given the opportunity to do so, however, many northern juries simply refused to convict those who had helped slaves gain their freedom. In doing so, those juries were simply following the lead of one of the Founding Fathers.

In 1771, John Adams – who would be the second President of the USA, and the country's first Veep – wrote, of the juror, 'It is not only his right, but his duty … to find the verdict according to his own best understanding, judgment, and conscience, though in direct opposition to the direction of the court.' And in 1920, the great judge Oliver Wendell Holmes would say that 'the jury has the power to bring in a verdict in the teeth of both law and facts.'

After Clive Ponting's, the most celebrated 'perverse' verdict was perhaps the one returned in the case of Michael Randle and Pat Pottle. Those men had written a book, explaining how, in 1966, they assisted George Blake to escape from Wormwood Scrubs and flee to the Soviet bloc. He was serving a 42-year sentence at the time, having been convicted of passing secrets to the Russians. On trial at the Old Bailey a quarter-of-a-century later, Randle and Pottle said they agreed neither with what Blake did nor with the sentence he was given, which his counsel had told the Court of Appeal

was 'so inhuman that it is alien to all the principles on which a civilised country would treat its subjects.' They argued it was necessary for them to break the law, and they were promptly acquitted, despite, again, a ruling from the trial judge that they had no defence.

In 2001, as part of his review of the criminal courts, Lord Justice Auld took another look at the perverse verdict. 'It has been an accepted feature of our jury system for a long time,' he said, 'and is seen as a useful long-stop against oppression by the State …' But all jurors must make an oath, saying that they will 'faithfully try the defendant and give a true verdict according to the evidence.' To choose perversity, Auld was adamant, would be to break that promise. He called the perverse verdict 'a blatant affront to the legal process.' Jurors, he said, … are not there to substitute their view of the propriety of the law for that of Parliament or its enforcement for that of its appointed Executive, still less so on what may be irrational, secret and unchallengeable grounds. Auld recommended 'that the law should be declared, by statute of need be, that juries have no right to acquit defendants in defiance of the law or in disregard of the evidence'.

In the alternative, however, he posed a striking question: 'should the law – and the juror's oath – be more honest?' 'Should we provide juries with an express power of dispensation or nullification, instead of just letting them get away with it, and should jurors undertake to give a verdict according to the evidence or their conscience?' If so, jurors would have to be told 'that they need not convict if they disagree with the law or with the decision to prosecute.' For Auld: Just articulating the direction brings home the enormity of such a possible clarification of the law, but as one distinguished academic has asked, 'what other way is there for an honest system to behave?'

That jurors may return a perverse verdict is not, then, in dispute, either in the United States or much closer to home, and the ability of jurors to return a verdict contrary to the evidence has had some distinguished proponents. Some people think that ability should be taken away, or that the jury oath should at least be made more honest. But there is a further point; one few people seem keen to acknowledge. Jurors are not told of their ability, just as they are not required to explain the decision they reach. What they are told, indeed, implies that their decision must not be influenced from outside the court. So when, in a particular trial, a defendant is convicted on the evidence, we cannot know whether the jury considered a perverse verdict only to reject it, or whether its members were even aware that such a verdict might be returned. And where a perverse verdict was rejected, we cannot know whether that was simply because jurors believed they must obey the promise they had been required to give. That, surely, calls the 'guilty' verdict into question. Isn't is possible that, aware of its ability or freed from the apparent constraints of its oath, the jury would have voted to acquit? And that is surely true of every such verdict returned by jurors to whom the current oath has been administered.

Isn't that a lot of guilty verdicts? Concerned by all of these questions, I wrote to a clutch of senior Parliamentarians, academics and QCs, to see what they would say. One, though courteous, could add nothing of note, while the rest didn't even bother to reply. When I turned to the Justice secretary, he told me that jury deliberations must remain secret, and that there are safeguards against improper behaviour by jurors. I wondered whether, because of their oath, jurors might feel they must ignore a verdict which, while perverse, would also be lawful.

In reply, the minister stressed 'the paramount importance of [jurors] giving a true verdict according to the evidence that is presented to them in court,' and also the direction they should receive from the trial judge to that effect. Telling them of their ability to return a perverse verdict would, he said, 'fly in the face' of these things, 'and might lead to confusion on the part of the jury as to their role in proceedings.'

I was referred to the Auld report and told that the government 'has no plans to revisit the manner'. None of this allayed my concerns, so I went back to Petty France, for what I guessed might be the final time. I wrote: 'The combination of the oath its members are required to take and the direction they receive from the judge might, of course, lead a jury to decide to eschew the 'perverse' verdict it favoured.' And I asked, 'Is that an outcome the government would welcome or one it would deplore?' My guess turned out to be correct. The Secretary of State cited Auld once again, and then he told me, 'there is nothing further to add.'

Sheku Bayoh Investigation Branded a 'National Disgrace' as Family Sues Police Scotland

Scottish Legal News: A probe into the death of Sheku Bayoh has been described as a "national disgrace" by his family and their solicitor as they launch a £1.8 million civil case against Police Scotland. Mr Bayoh, 31, died after being restrained by officers who were responding to a call in Kirkcaldy on this day, three years ago.

Aamer Anwar, solicitor for the family, criticised the police as well as the Crown Office and the Police Investigations and Review Commissioner, saying the family had been given no answers. Mr Anwar said the restraint used by officers was "not reasonable, proportionate or necessary and resulted in Sheku suffering positional asphyxiation". He added: "Sheku's family have always said if he broke the law then arrest him, but any use of force had to be lawful, proportionate and necessary in the circumstances, but he did not deserve to die. Last Friday a summons was served on the present chief constable for the actions of officers three years ago under the leadership of then chief constable Stephen House. The action for damages in the Court of Session is for £1.85 million in the name of his family."

He also called on PIRC commissioner Kate Frame to resign as the body had failed "to adhere to its values of integrity, impartiality and respect. I wish to state on behalf of Sheku's family that the investigation into the death of Sheku Bayoh was a national disgrace, to date no officer was suspended without prejudice and despite a final report delivered by PIRC to the Lord Advocate in 2016 he is yet to take action. The passage of time means that memories fade and evidence disappears or deteriorates. Sheku's loved ones never wanted to go to court but they will not give up."

Deprivation of Liberty of a Transgender Child:

Duncan Lewis: The case concerns T, a transgender child and the deprivation of liberty and rights under Article 5 of the European Convention on Human Rights. If the state imposes restrictions upon the child's freedom and movement without the Child's consent, there is interference under Article 5 of the European Convention of Human Rights. The child has been deprived of her liberty by the local authority in whose favour there is a care order. The child has been held in a number of placements which had imposed resections upon her liberty. The Local Authority believed they had the power to restrict T, who had a history of absconding from secure accommodation. Due to the Child's previous involvement of being involved in 'disturbing and concerning' incidents, the court must weight what is in the Child's best interests against the deprivation of liberty.

The child's liberty was severely restricted; she was not allowed to leave the secure accommodation, the doors and windows were locked, no money was allowed to be kept and no access to a mobile phone was allowed as well as being subjected to frequent checks throughout the day and night. However, these orders were approved by the courts as being in her best interest and necessary to safeguard her wellbeing. Since the previous hearing, the child began to self-harm and was admitted to hospital and was reported missing after leaving her

placement. T moved to a new placement and it was reported that T consented to this placement. The child was objectively confined and not in any realistic sense able to leave freely. The fundamental issue was whether the child authentically gave her consent.

The Judge's decision was weighed with careful consideration of the current statutory law and having to weigh up the prevention of deprivation of liberty of the child's rights. The deprivation of liberty for the child due to the lack of secure accommodation led to the Court's findings that as the child themselves consented to arrangements, there is no need for authorisation under the jurisdiction as it is done by consent. Mr Justice Mostyn demonstrated that consent in the form of a child consenting to this restriction on her own liberty must be a consent which is understood by the child fully and can be sustained for a period of time. This is a turning point in the previous case law as consent was never to be restricted to a period of time.

The Judgement was made in the child's best interest and therefore without the Judge's order the Local Authority does not have the power to place the child, consequently the Local Authority requires authority from the court to make a new placement. Mostyn J therefore discharged the order authorising T's detention at their previous placement and replaced it with a fresh order authorising their detention at the new placement. The child was granted permission to appeal both judgements by Peter Jackson LJ, in the Court of Appeal. This case is noteworthy as it will be the first time that the Court of Appeal has looked at the right of consent within Article 5 of the European Convention on Human Rights.

Windrush Shows How 'Britishness' Stinks

Yuri Prasad, Socialist Worker: The Windrush scandal has revealed a stinking, festering hypocrisy at the heart of "Britishness". For decades immigrants and their children have been scolded by politicians and the like for failing to "fit in" with the culture and values of this country. If we were excluded, marginalised and segregated, it was our own fault—we had failed to integrate, they insisted. Now we find that even those who have jumped through all their hoops are still considered not British enough.

People who came to Britain from its former colonies in the post-war years have passed every integration test set for them—and more. They sweated in the dirtiest jobs, reared their children in the worst housing, and sent them to schools that regularly mistreated and excluded them. And, despite all the hardships and abuse, they maintained their belief that they were citizens—and accordingly had rights that should be respected. Subsequent generations jumped over all manner of racist hurdles to be accepted as British. Yet when they say they are from London or Birmingham, they are still asked, "Yeah, but where are you really from?"

The sad truth is that no amount of integration into British society was ever going to be enough. It doesn't matter to the Home Office whether you speak excellent English or have generations of family here. It doesn't matter whether you have lots of white British family, friends and neighbours, or you have worked hard and paid taxes all your life. You can even have represented Britain in the international sporting arena. None of it means anything. It can all be wiped away at the stroke of an immigration officer's pen.

For the much of the mainstream, this state of affairs is deeply wrong. Windrush is a scandal because the wrong immigrants are being targeted. In their minds, they have constructed a vision of a "good immigrant" and a "bad immigrant". The "good immigrant" has assimilated, they are "like us". The "bad immigrant" isn't. The "bad immigrant" is an "illegal". Maybe they have fled to Britain, crossing the channel underneath a truck carrying little more than the

clothes they stand up in. Probably they know little English and, with their bewildered look, they seem totally unaware of British customs and culture.

"The bad immigrant" has nothing to contribute to our society—they can never fit in, we're told. This depiction of the recently arrived will be familiar to anyone who came to this country in the 1950s and 1960s, and who are today lauded by the right as, "one of us". It's exactly what they heard when they landed in the docks of Tilbury and Southampton all those years ago. It's undoubtedly what the Asian strikers at the Grunwick plant heard in 1976 as they walked out on picket lines. Their action was to galvanise tens of thousands of white workers into giving solidarity and today is rightly hailed a turning point in labour history. It showed that white workers can be decisively broken from backward prejudices.

Years of similar struggles in workplaces, schools and the streets ultimately transformed both the arriving immigrants and the working class they joined into a new, multiracial force. Together they forged a new culture, and transformed Britain—from the food people eat, the music they listen to, the clothes that they wear, their relationships and their communities. The very notion of "Britishness" is designed to disrupt that process. It drives a wedge into the working class. It says to all those who qualify that you are a superior breed, and that you will be accorded status as a result. And it teaches those left out that they can rely only on each other for assistance. Happily, for the Windrush Generation, it is the tradition of struggle that has won out. Class solidarity, not nationalism, supplies the groundswell of support for those demanding justice.

Not the 'Awkward Squad': Unrepresented Defendants In the Crown Court

Penelope Gibbs, 'The Justice Gap': In 2015 when I was trying (with difficulty) to do research on unrepresented defendants in the criminal courts, I steered away from the Crown Court because the Ministry of Justice said they were doing research on this which would be published. I chased and chased but eventually they announced that they had no intention of publishing the research. After I and others FOIed the report and appealed to the Information Commissioners Office, the Ministry of Justice was forced to publish. Two years later we have six pages – an analytical summary based on interviews with 15 Crown Court judges and six CPS prosecutors. Small scale though it is, many of the findings echo Transform Justice's own research on unrepresented defendants in the magistrates' courts.

No one knows how many people appear in the Crown Court without a lawyer throughout their trial, but 7% defendants are unrepresented at their first appearance in the Crown Court. The report points out that Not all self represented defendants in Crown Court are members of 'the awkward squad'- people who are determined to represent themselves. Some defendants self represent either because of mental health problems or legal aid/funding issues 'these defendants perceived the level of contribution as too high and that self-employed defendants had particular problems proving their level of income'. Unrepresented defendants have a varied but limited understanding of the court process including how to present evidence about their case at hearings, how to prepare defence statements or how to ask questions in court (i.e., the fundamentals of advocacy).

Disclosure was a particular problem – with unrepresented defendants 'not understanding the concept of disclosure…not knowing what to ask for and not setting out their argument'. There are strong hints throughout that unrepresented defendants do not get a fair trial as they are 'not properly qualified to put their case forward'. 'Other interviewees felt that a higher proportion of guilty verdicts resulted from the unrepresented defendants' cases.' They also suggested that the behav-

iour of an unrepresented defendant could directly influence a jury either way thus risking the 'neutrality' of the jury – ie their ability to make an unbiased decision. Interviewees thought witnesses were disadvantaged when faced with an unrepresented defendant. In cross examining 'interviewees gave examples of defendants being aggressive, rude and asking unnecessary questions'. Through their (understandable) ignorance unrepresented defendants could waste witnesses time by calling 'witnesses to trial unnecessarily as they did not understand who should give evidence'.

There is a consensus from interviewees that unrepresented defendants slow the court process down at every stage. This has implications for funding of legal aid. There are strong hints from the report writers that they think that it is not cost effective to deny legal aid to those who cannot afford private fees/contributions – hence the suggestion that there should be a Crown Court duty solicitor scheme and/or judicial discretion to grant representation where appropriate. The report is disappointing in not including any quotes from the interviewees. But the conclusion are clear – that unrepresented defendants are neglected in policy and practice and that their financial impact should be monitored 'assessing and costing options to mitigate any negative impact'. Transform Justice made a similar recommendations two years ago. We have a criminal justice system which is too complicated and fundamentally unsuited to defendants coping without a lawyer, either in the Crown Court or the magistrates'. We either need to simplify the system altogether, or give legal aid (with the lawyers paid fair rates) to anyone who needs it.

Justice Update Secretary of State for Justice Mr David Gauke

On 9 January, I announced an immediate review into: the transparency of Parole Board decision making; whether there should be a mechanism to allow parole decisions to be reconsidered; and victim involvement in the parole process. On Saturday I published the full findings of that review and the action I will take in response. The review has looked at issues with the parole process as a whole following the Parole Board's decision to direct the release of John Worboys. Under the current law, the policies and procedures of the Parole Board mean decisions are taken behind closed doors. Open justice is an important principle of our justice system. It must not only be done; justice must be seen to be done.

Victims, and the public, must have confidence in the criminal justice system. Parole Board decisions are inevitably difficult, but this makes it even more important that information is available about how the process works. We must support victims as they continue to suffer from the impacts of the crimes committed against them, and make sure they receive timely and accurate information about what is happening in their case, delivered in a considerate way.

This review sets out the action the Government will take. We are: removing the blanket prohibition on the disclosure of information about Parole Board proceedings, so that victims can be given summaries of the reasons for the board's decisions. Where the Parole Board chair considers it to be in the public interest, summaries will also be available to the public and the media on request. There will be a presumption that this will happen. This change will come into force on 22 May 2018; launching a consultation on a new process to allow reconsideration of Parole Board decisions on whether to release a prisoner. We envisage a judge-led reconsideration process which in some circumstances could be open to the public, and with the individual or panel that makes the reconsideration decision named. This consultation will consider how the new process should operate and will be open until the end of July. Once that has completed I will set out my plans for bringing the changes into effect; and, making immediate changes to how we communicate with victims. We are widening access to the Victim Contact scheme and considering further changes to be included in the Victims' strategy which we will publish this summer. In addition to the immediate actions I am taking forward as a result of the review, I have also announced a comprehensive examination of all 27 of the Parole Board rules to ensure that the processes and procedures as a whole are right and fair. This initial package of measures sets out the immediate action we are taking. It is a vital first step in moving toward a parole system that ensures greater openness, challenge and involvement of victims in the parole process, and towards restoring the confidence of victims and the wider public in the justice system.

Megrahi Conviction to be Fully Reviewed

The Scottish Criminal Cases Review Commission announced today 03/05/2018, that it has agreed to accept the current application in the case of Abdelbaset Ali Mohmed Al Megrahi to proceed to stage 2 of its process, and will now conduct a full review of his conviction for the Lockerbie bombing in order to decide whether it would be appropriate to refer the matter for a fresh appeal. Gerard Sinclair, chief executive of the SCCRC, said: "In any application where an applicant has previously chosen to abandon an appeal against conviction the commission will, at the first stage of its process, look carefully at the reasons why the appeal was abandoned and consider whether it is in the interests of justice to allow a further review of the conviction. The commission has now investigated this particular matter and interviewed the key personnel who were involved in the process at the time the previous appeal was abandoned in 2009. The commission has also sought access to the relevant materials and has recovered the vast majority of these, including the defence papers which were not provided during its previous review. Having considered all the available evidence, the commission believes that Mr Megrahi, in abandoning his appeal, did so as he held a genuine and reasonable belief that such a course of action would result in him being able to return home to Libya, at a time when he was suffering from terminal cancer. On that basis, the commission has decided that it is in the interests of justice to accept the current application for a full review of his conviction."

MoJ Postpones Plans To Reduce Female Prison Population

Rajeev Syal, Guardian: A multimillion pound government strategy to reduce the number of women being jailed for non-violent offences has been postponed, the Guardian can disclose. Plans to set up community prisons for women and to launch a scheme that would provide support for female offenders were supposed to be announced this month. The Ministry of Justice has delayed finalisation of the strategy, which is now going to be rewritten. Whitehall sources said the plans would have cost the department up to £30m and that spending pressures had prompted a review by David Gauke, the justice secretary. Some capital spending on both men's and women's prisons is also being reviewed by the government, the sources said. The decision has dismayed prison reform campaigners who have been waiting for several years for the female offenders' strategy to be implemented.

Peter Dawson, the director of the Prison Reform Trust, said: "It would beggar belief if the justice secretary really wanted to rethink a change in approach that everyone with knowledge of the issues supports." He added: "Support in the community offers better public protection at a fraction of the cost of prisons. Because women are disproportionately sent to prison for short periods as a result of non-violent offences, the dividend of a new approach could be realised quickly." There is broad political consensus that female offenders are some the most vulnerable members of society and often have complex needs. A significant number of such women suffer from mental health issues, substance use, trauma and abuse, homelessness, poor

education and unemployment. The need for a female offenders' strategy was raised in the white paper Prison Safety and Reform in 2016 by Liz Truss, the then justice secretary. It has since been developed by successive ministers. The latest plan brought together the National Probation Service, community rehabilitation companies and local agencies to support women as well as coordinating help with mental health staff in police stations and courts. They also planned to set up new community prisons to house vulnerable women ahead of release.

Women account for 5% of the total prison population of about 85,000 in England and Wales but have much higher rates of deaths, suicide attempts and self-harm than men. Last year there were 2,093 incidents of self-harm per 1,000 female prisoners, up 12% on the previous year, compared with 445 incidents per 1,000 male prisoners, up 8%. Most of the women who go to prison do so for non-violent offences (84%), such as for theft linked to poverty and addictions (47%). Nearly two-thirds (62%) of sentences are for six months or less – which is enough time to lose a job, housing or child custody.

UK's Longest-Serving Prisoner Released After Nearly 43 Years

Dan Carrier, Guardian: John Massey, 69, was convicted in 1975 of the murder of Charlie Higgins, a pub doorman, and was handed a mandatory 20-year life sentence – but he spent more than twice as long in jail after escaping on two occasions to say goodbye to dying members of his family in Kentish Town, north London. Massey's extraordinary story includes a prison break from Pentonville in 2012, in an attempt to see his mother, May, on her deathbed. He had been denied compassionate leave. He had served a sentence almost two decades longer than other prisoner in the UK convicted of a similar crime when he walked out of HMP Warren Hill in Suffolk on Wednesday morning. Since Massey's escape in 2012, he has had three pleas for freedom rejected by the Parole Board and served time in Belmarsh, one of the UK's highest security prisons. Last week a panel decided that Massey, who has seen the inside of nearly every jail in the country, should be freed.

He first escaped in 1994 by climbing out of a pub window while on an escorted home visit to see his parents in north London. He travelled to Spain where he stayed for three years before being extradited and sent back to prison. In 2007, he broke parole conditions to sit by his father Jack's deathbed. On another occasion, he walked out of an open prison to visit his sister, Carol, who had a terminal illness after being denied compassionate leave. Massey said on his release: "I have always deeply regretted the crime I committed and am aware of the consequences and the suffering it caused. It happened in a moment of madness. I have served my sentence with remorse and am thankful the Parole Board have come to the decision that I should now be released."

His solicitor, John Turner, who has fought to secure Massey's freedom for a decade, said: "John's release is long overdue and I am absolutely thrilled for John and his relatives, whom I have worked closely with for a number of years. John comes from an extremely tight-knit family who have supported him throughout his many years in prison." He said Massey's escape attempts had been tied to a sense of loyalty towards a family who had stood by him, adding: "John is a proud man – some may even say stubborn – and having acted for him for many years, he has been candid in explaining that he would have acted in the same way again if he was ever put in a similar position." Turner said despite breaking rules, his client posed no danger to the public. Massey, an accomplished self-taught blues guitarist, has to fulfil strict parole conditions.

The Parole Board hearing a fortnight ago, where his case for release was supported by a key worker, prison staff and his probation officer, had gone as well as could be hoped, Massey

said. "I really wasn't expecting it. I didn't want to feel hope. I know the system and I did not want to think about going through the parole process yet again, and having to wait another year," he added. Massey was later told a bed at a halfway house in London would need to be found before he could leave his cell. Some prisoners, he said, had waited months. "I'd be happy to get a sleeping bag and kip under the railway arches if it meant I could leave this place," he said.

The State Has a Terrible Secret: it Kidnaps Our Children

Louise Tickle, Guardain: Councils are keeping children in care against their parents' wishes. Until family courts are opened up, these human rights abuses will continue to be hidden from view. Imagine you're a single mother. You get injured in a car accident, and a kind friend offers to look after your two young boys while you're in hospital. You accept with relief. Three weeks later, when you get home, you're still a bit shaky, so your friend suggests it might be best if she has the boys for another few days. You are unsure, but she is persuasive. First thing on Friday you send a text saying you will pick them up from school. A few hours later – you've been awaiting her reply, slightly puzzled at the delay – a text pings back: they are really looking forward to the fun weekend she has planned. How about revisiting the situation on Monday?

With mounting unease and some anger you race over and tell her the kids are coming home with you. You are met with a smiling refusal. Until she feels that you are well enough, she explains calmly, they are staying with her. Then she bundles them into her car and heads off to a holiday camp. Presumably at this point you would call the police. Given that there are laws in this country about kidnap, you would get your children back pronto, and your "friend" would be in serious trouble.

Kidnap is not a crime typically associated with Britain. But it is happening, right now, and the local authorities involved don't want you to know. High court judge Mr Justice Keehan, in a scathing judgment earlier this year at Nottingham family court, revealed that at least 16 children have been "wrongly and abusively" looked after by Herefordshire council, under something called a section 20 arrangement, for "wholly inappropriate" periods of time. For one boy, that was the first nine years of his life after he was born to his 14-year-old mother. For another boy it was eight years, from the age of eight to 16, despite his mother on several occasions withdrawing her consent. Shockingly, at the time of the judgment, 14 children were still being wrongfully looked after by Herefordshire on section 20 arrangements, despite the local authority knowing full well the judge's displeasure.

These are not court orders. They must be a voluntary agreement, and in legal terms they precisely mirror the situation where the single parent consented (at first) to her friend looking after her boys. For a section 20 to be legal, social workers must be certain they have a parent's informed consent to their child being accommodated by the state. And a parent can withdraw consent at any time, because they keep full parental responsibility. If Mum or Dad wants to turn up at a foster carer's house at midnight without notice and take their child home, they can. No ifs, no buts. But many parents say social workers threaten that if they do, it will mean a trip to court for a care order. There is no surer way to scare the living daylights out of a parent. And so frightened acquiescence – not the same as consent – tends to be the result.

The sheer scale of the section 20 abuses revealed in Keehan's judgment dwarfs many other egregious instances of its misuse that have been detailed in a slew of judgments published by outraged judges over the past few years. Given the substantial publicity these judicial criticismshave had in the social work and legal press, it is difficult to see how social workers in good faith can plead ignorance of the law. The only alternative is that they are recklessly, even deliberately, choosing to flout it. Despite the fact that one boy's mother withdrew her con-

sent to section 20 accommodation, Herefordshire's children's services deliberately chose not to follow the council's legal officers' repeated advice that a care order should be sought if it was thought the boy should remain in foster care.

In the case of the boy who was on a section 20 for the first nine years of his life, the judge observed that repeated recommendations made by his independent reviewing officer that his case should be brought before a court were ignored by those above her. Added to this miserable litany of failure, Herefordshire council also accepted that it had "not respected" his 14-year-old mother's human rights as a vulnerable child herself: it's doubtful, at the age she gave birth, whether she could have given informed consent. Grasping this surely shouldn't require a forensic understanding of children's rights: basic common sense would do.

The poet Lemn Sissay recently agreed to accept a compensation package from Wigan council for the abuses he suffered as a child while in its care. Despite his mother writing letters begging the council to return her baby once she was better able to look after him, he would not be reunited with her until he was in his late 20s. That was years ago, but abuses of power are still continuing today.

Social workers must stop acting as if they are above the law. In reporting on family cases, I have observed the most extraordinary sense of entitlement and arrogance both in court hearings and in email communications when attempting to investigate and highlight poor and unlawful practice. There is no humility. There is instead a knee-jerk opposition to anyone presuming to want to hold a local authority publicly to account. Given that family cases are heard in private, if the judge had not rejected the council's plea to keep its identity secret, nobody would ever have known about the long-standing and outrageous failings of Herefordshire's social work team. Why, just because the state is the "corporate parent", should it usually get a free pass on scrutiny and accountability?

Kidnapping children is wrong, whoever does it. When it is the state, which then argues for its transgressions to remain secret in the family courts, it is terrifying. There are growing calls for these courts to lose the privilege of privacy that child protection professionals have benefited from for so long – because how many more human rights abuses are being hidden from view when judges opt not to publish judgments, and when journalists who go to family courts are not allowed report what they see?

Female Police Officer Sues Met For £200,000 After Having to Watch 100 Child Rape Videos

Telegraph: A policewoman is suing the Metropolitan Police for £200,000, in what is thought to be the first case of its kind, after having to watch 100 child abuse videos. Cara Creaby, 29, is seeking compensation for the "psychiatric injury" she claims to have suffered while investigating the rape of three young girls, one of whom was aged 11 at the time of the offence The officer alleges that the "harrowing and dangerous material" has left her with "intrusive flashbacks and nightmares" and post-traumatic stress disorder.

Mrs Creaby, from Hemel Hempstead, became the main point of contact in December 2014 for three young girls suspected of being victims of grooming and sexual abuse over three years by Michael D'Costa. She formed an "emotional bond" with the girls, who she supported and interviewed during the investigation, and was simultaneously required to watch videos, for "at least eight hours at a time" of them being "sexually abused and degraded".

Mrs Creaby, who joined Scotland Yard in 2009 and three years later was appointed to the force's Sapphire Unit, handling child abuse cases, searched D'Costa's home and seized more than 100 videos of him abusing the girls and a diary of his attacks. D'Costa later pleaded guilty to 25 offences including rape, in what Judge McGregor Johnson described as a "campaign of rape". He was jailed in 2015 for 16 years.

Legal documents lodged at the High Court and seen by the Mail on Sunday, claim that the officer told her bosses several times about her workload and the effect it was having on her but was told to "stick to the job at hand". In March 2015 she began to experience nightmares of "the child rape she had been required to watch" and became aware that intimate moments with her partner caused her to "panic and become tearful". Mrs Creaby was referred to the force's Occupational Health department in April and was signed off sick a month later. Her lawyer, David Miles, of Slater & Gordon, alleges that there was an "absence of risk assessments and health and safety surveillance which would have protected her from the risk of foreseeable psychiatric harm."

A spokesman for the MET Police said: "A claim for damages due to psychiatric injury, dated 22nd Febraury 2018, has been received by the MET police service. It is currently being reviewed by solicitors acting on behalf of the MET." Mrs Creaby, who remains off sick, is being supported by the Police Federation, which represents rank-and-file police officers in England and Wales. A spokesman for the union said: "In order to investigate some of the most serious criminal offences there is a recognised need for investigators to view some of the most harrowing, disturbing and distressing images imaginable."But the affect that viewing such material can have on officers must be recognised and acknowledged and it is vital that officers – especially those who undertake these types of roles – are provided with appropriate and on-going workplace monitoring, supervision, and assistance in order to protect their own health and wellbeing, and that all necessary risk assessments and checks are undertaken to safeguard them in their roles."

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Hostages: Sally Challen, Naweed Ali, Khobaib Hussain, Mohibur Rahman, Tahir Aziz, Roger Khan, Wang Yam, Andrew Malkinson, Michael Ross, Mark Alexander, Anis Sardar, 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 Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan & Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, 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.