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Justice Secretary 'Rejects' SAGE Report on Prisons

The justice secretary has dismissed findings in a SAGE report that found prisoners are more likely to die of COVID-19 than people in the wider community. The report described how 'the higher incidence of infection and the poorer underlying health of prisoners' were likely to contribute to 'higher levels of COVID-19 mortality in prison populations compared to the general population'. According to data up to February 161 prisoners and probation service users have died as a result of the pandemic and some 14,480 prisoners have tested positive for COVID-19. According to the report, prisons have a higher risk of infection, recording 181.2 cases per 1,000 people in February 2021 compared to a general population rate of 70.19 cases per 1000. Robert Buckland declared himself 'quite worked up' about the findings in the report (as reported in Inside Time). 'I think it's wrong, I think it's based upon misconceptions, I reject it,' he said. Buckland also defended the way prisons have handled the pandemic. 'Although we have lost people – and every death is a sadness and a tragedy – we have, I think, worked in an incredibly effective way to minimise what could have happened within the prison estate.' 'Unfortunately, he was agitated by the awkward challenge it posed to his policies, not seized by the opportunity it presented to do something to better protect the lives of prisoners and prison staff,' write Richard Garside, director of the Centre for Crime and Justice Studies. '… Having failed previously to implement an early release programme to get as many prisoners as possible out of harm's way, the Justice Secretary now appears more interested in trashing serious-minded scientific analysis than in being guided by its insights.'

The current restrictions have a 'highly negative effect on mental health of prisoners…and rehabilitation', according to the SAGE report. Furthermore, in the absence of vaccination of staff and prisoners it was 'likely that these measures will need to be continued for many more months'. The report recommends increasing vaccination of all prisoners and staff in order to allow faster lifting of restrictions, reduced outbreaks and decreased mortality, all of which would benefit the wider control of COVID-19. One prison vaccination model predicted it would reduce cases by 89%. Downing Street has previously rejected prioritising vaccinations for prisons, commenting that prisoners will be vaccinated 'at the same time as the general public'. A separate study, led by Dr Isobel Braithwaite of UCL, found that the risk of dying for prisoners was 3.3 times higher than for people of the same age and sex living in the community. The Ministry of Justice has disputed the findings, criticising it for failing to account for the poorer health of prisoners and intake and outtake of prisoners.

Key findings of SAGE report: 1.Prisons are highly prone to large scale outbreaks leading to higher rates of infection and hospitalisation and much higher levels of COVID-19 mortality than seen in the general population; 2. Prisons will remain at high risk of outbreaks even when infection levels in the community are low because the importation of a single case can lead to a large outbreak; 3. Prison outbreaks are frequent, large, long lasting (over a period of weeks) and difficult to control; 4. Even with control measures in place there remains a significant risk that a single strain can rapidly amplify to a large outbreak, which can be very difficult to control; 5. Prison outbreaks occur despite highly intensive control measures including: substantial restrictions on prisoner mixing, reverse cohorting of new arrivals, confining prisoners to their cells for up to 23 hours a day, reduced socialisation, training and exercise opportunities and stopping of visitors; 6. Although the restrictions have saved lives qualitative surveys have indicated that spending up to 23 hours a day in a cell, stopping of visits from spouses, children and partners and cancellation of rehabilitative activities has had a substantial negative impact on mental health; 7. Control of infection coming into the prison will become increasingly challenging as numbers of prisoners increase to normal levels; and Increasing early vaccination of all prisoners and staff would allow faster lifting of severe restrictions, reduce outbreaks and decrease mortality.

No Statutory Requirement to Impose A Consecutive Sentence on 'Default' Orders

Giovanni Di Stefano: The Criminal Justice Act 1988 relinquished its statutory rights in favour of the Proceeds of Crime Act 2002 [POCA 2002] on the 24 March 2003 [S.I.2003 no.33] when the said provisions were brought into force albeit POCA 2002 received Royal Assent on 24 July 2002. POCA 2002 is divided into 12 parts consisting of over 460 sections and 12 schedules. Part 2 concerns confiscation orders in criminal proceedings. Contained within POCA 2002 there is not a single word of 'Hidden Assets' De Jure and De Facto. For the purpose of this opinion, the relevant legislation for "default" sentences can be found in POCA 2002 s.38.

Since 2003 it had always been settled and accepted view that provisions about imprisonment or detention in default or discharging a valid confiscation order must always be consecutive to the Index Sentence served. The 'settled' and 'accepted' position is a fallacy, and there is no statutory duty to impose a consecutive sentence for reasons clearly set out in the Legislation. The governing section within POCA 2002 imposing duties for default sentences is found – as states – in s.38 and the relevant subsection is (2) which states: "In such a case the term of imprisonment or of detention under s.108 of the Powers of Criminal Courts (sentence) Act (detention of persons aged 18 to 20 for default) to be served in default of payment of the amount due not begin to run until after the term mentioned in subsection (1) (b)."

Practitioners for almost 20 years have erred in accepting that the word "after" to mean "consecutive". By taking such a wrong turn in the application of the law has – per se – failed not only the Statute but of nature justice itself. Had practitioners carefully scrutinised the legislation and supporting statutes it would have been properly directed and such clear-cut direction can be found in the Powers of the Criminal Courts (sentencing Act 2000 s.139 (5) [PCCS 2000]: "Where any person liable for the payment of a fine or a sum under recognizance to which this sentence applies is sentenced by the Court to, or is serving or otherwise liable to serve, a term of imprisonment or a term of detention under s.108, the court may order that detention in a young offender institution or a term of detention under s.108, the court may order that any term of imprisonment or detention shall not begin to run until after the first-mentioned term".

To use in the statute of the word "may" is discretionary, not mandatory. For far too long practitioners and the judiciary have taken a wrong turn in the application of the law. There has been a serious premature adjudication and interpretation presuming to impose a statutory duty to impose a consecutive sentence when clearly no such statutory duty exists. It may well be the case that in the majority of cases a consecutive sentence is the correct approach. However, there remains the fact that such an approach remains a discretion and not a duty.

Any detainee who has received a default sentence on the basis that the judiciary failed to consider the application of discretion, or where within the sentence remarks there is no mention of such discretion, should accordingly consider an appeal to the Court of Appeal Criminal Division. Where a detainee is unable to pay a default, the sentence becomes arbitrary detention. The distinction

between unable to pay and refusing to pay is to be distinguished. A detainee who is unable to pay may well find some comfort in the 4th Protocol of the European Convention on Human Rights (Strasbourg, September 16, 1963, Art 1: "Prohibition of imprisonment for debt". "No one shall be deprived of his liberty merely on the grounds of inability to fulfil a contractual obligation". All countries within the Council of Europe (to be distinguished from the European Union) must abide by the ECHR and as founding members of the Council of Europe, the United Kingdom is bound by international law and Treaty to comply. For all the above reasons there is, never has been, any statutory duty to impose a consecutive sentence for any default sentence within the confiscation regime and further, if upon discovery and enquiry a Court finds that any detainee with s.258 of the Criminal Justice Act 2003 is unable to pay a confiscation order as opposed to refusing/unwilling to pay any detention suffered and/or continuous becomes arbitrary and the most serious breach of law and duty.

Northern Ireland "Above All, the Continuing Peace" Did the Queen get it Wrong?

On Sunday 2nd May Queen Elizabeth said the following: 'The political progress in Northern Ireland and the peace process is rightly credited to a generation of leaders who had the vision and courage to put reconciliation before division. But above all, the continued peace is a credit to its people, upon whose shoulders the future rests.' It is clear that reconciliation, equality and mutual understanding cannot be taken for granted, and will require sustained fortitude and commitment. During my many visits to Northern Ireland, I have seen these qualities in abundance, and look forward to seeing them again on future occasions,'

The Authoritative 'International Crisis Group', in its' April report, listed Northern Ireland as a country that had a 'Deteriorated Situation'. They said: 'Violent unrest erupted in the capital Belfast and other cities against the backdrop of rising unionist anger over controversial Northern Ireland Protocol. Unrest 2-9 April broke out across several cities, reportedly leaving at least 90 police officers injured; violence erupted amid rising discontent within the Unionist community over Northern Ireland Protocol – provision of UK-EU "Brexit" agreement in effect since 1 Jan 2020 that created regulatory border in the Irish Sea – as well as anger over Public Prosecution Service's late March decision not to prosecute Sinn Fein politicians who attended a funeral last summer in violation of COVID-19 restrictions on large gatherings. Notably, groups of predominantly youths 2 April assaulted police officers, injuring 12 in Londonderry city; the next day hijacked and set alight three vehicles and threw over 30 petrol bombs at police in Newtownabbey town. In capital Belfast, authorities 2 April arrested eight individuals, including a 13-year-old boy, after youth groups attacked police officers in a historical loyalist area. Group mostly encompassing youths 7 April highjacked and set a bus on fire at the intersectional area between nationalist and unionist communities; 8 April threw petrol bombs at police officers who deployed water cannons for the first time in six years.

Northern Ireland: Dealing With the Past

Lawyers working on cases dealing with Northern Ireland's troubled past know that this field of legal work develops slowly. Sometimes, however, developments occur at an unexpected and unwelcome speed. Such has been the case this week. From the collapse of a controversial trial to the reporting of a legislative "amnesty", the legacy of the Troubles remains an indelible part of both judicial business and daily life. The fatal shooting of Joe McCann (The Queen v Soldiers A & C). Joe McCann had been a member of the Army Council of the Official IRA. In 1972, he was the Officer in Command, First Battalion of the Official IRA and in charge of the Markets area of Belfast. He was suspected to have been involved in the murders of two soldiers and the attempted murders of four police officers (among other serious incidents). In the afternoon of 15 April 1972,

he was seen by a Royal Ulster Constabulary (RUC) police officer who alerted a nearby patrol of paratroopers which included soldiers A and C. The police officer tried and failed to arrest Joe McCann, who was running away from him and the paratroopers. The police officer shouted at him to halt but he kept running. There was then sudden gunfire from behind the police officer, where the paratroopers were standing. Joe McCann was struck by two or possibly three bullets and died quickly at the scene. No forensic analysis was undertaken to determine who had fired the fatal shot.

Soldiers A and C gave statements to the Royal Military Police (RMP) the following day. However, these statements had not been voluntary. Instead, they had been ordered to make statements, without having been cautioned and without having had the benefit of any independent legal advice. They were not interviewed or cautioned by the RUC because a practice had been established by which the police would not arrest, question or even take witness statements from soldiers in cases involving shootings. This practice, designed to protect soldiers from being prosecuted, was condemned by the Court as "appalling". In the event, no prosecution was brought against either soldier and no further developments in this case occurred for another 38 years.

In 2010, the recently created Historical Enquiries Team (HET) of the Police Service of Northern Ireland (PSNI) contacted A and C to ascertain any further information about the death of Joe McCann. The HET had been established as part of a "package of measures" (which included the Police Ombudsman for Northern Ireland and the Northern Ireland inquest system) to ensure that investigations of Troubles-related matters were compliant with Article 2 (the right to life) of the European Convention on Human Rights (ECHR). This was intended (see the 2013 report of Her Majesty's Inspectorate of Constabulary) to be an answer to the plethora of failings identified by the European Court of Human Rights in the McKerr group of cases (McKerr v United Kingdom (2002) 34 EHRR 20, Jordan v United Kingdom (2003) 37 EHRR 2, Kelly v United Kingdom (2000) 30 EHRR CD223, Shanaghan v United Kingdom (2000) 30 EHRR CD370, McShane v United Kingdom (2002) 35 EHRR 23 and Finucane v United Kingdom (2003) 37 EHRR 29).

However, there was a considerable degree of ambiguity to the role of the HET and the extent to which its staff were investigators. By the time the HET had contacted A and C, it had adopted a policy of giving cautions when interviewing former soldiers unless there was no prospect of prosecution. Meanwhile, the McCann family, who had been engaging with the HET, wrote a letter to be shown to A and C stating that they sought the truth of what happened to Joe McCann and not retribution. Two HET staff, both former police officers, met with A and C in March 2010 in the presence of their solicitors. While A and C were cautioned, they were not under arrest, and no reference was made to any specific offence, least of all murder or attempted murder. A and C had prepared written statements which were read into the record along with the 1972 statements. A no longer had any independent memory of the shooting and relied heavily on his 1972 statement, while C had some independent memory. In the event, nothing more followed.

The McCann family next applied to the Attorney General for Northern Ireland to direct a fresh inquest into Joe McCann's death. This is a fairly wide power available at the Attorney's discretion under section 14 of the Coroners Act (Northern Ireland) 1959 (not to be confused with the equivalent power in England for the High Court to make a direction on the Attorney General's fiat). Instead of exercising this power, however, the Attorney referred the matter to the Public Prosecution Service (PPS). A and C were then charged with murder in 2017.

Sitting in the Crown Court, Mr Justice O'Hara determined that the trial of A and C turned entirely on whether the 1972 statements were admissible in evidence. The answer was a clear "no". This was because of the rules surrounding the making of statements in criminal investigations at the

time. O'Hara J summarised the position succinctly: "It is beyond dispute that at common law the statements would have to have been excluded because they were ordered rather than volunteered and because no caution was issued by the person taking them." And nor was the 1972 inadmissibility improved by the 2010 interview. This was because the 2010 interview was fatally flawed, not least because of the failure to caution either A or C for any specific offence. Moreover, the HET had not explained to either A's or C's solicitors the circumstances in which the 1972 statements had been made (the order to make them, in the absence of legal advice, etc.) which would have enabled the solicitors to advise their respective clients whether to make any statement at all in 2010. As O'Hara J pointed out, "Had the solicitors in this case known in 2010 what the circumstances were and that as a result the 1972 statements were inadmissible it is barely conceivable that they would have advised A and C to answer questions in 2010."

Finally, the Court was acutely aware of the fair trial rights of A and C under Article 6 of the ECHR. The use of information to incriminate a person when that person supplies the information under coercion flies in the face of the self-incrimination protections guaranteed under Article 6 (see e.g. Saunders v United Kingdom (1997) 23 EHRR 313, [68]). In the end, O'Hara J pithily observed - [a prosecution] is not possible in the present circumstances where what is put before the court is the 1972 statement dressed up and freshened up with a new 2010 cover. It is all still the same 1972 statement. The result was the collapse of the trial and a demonstration of the robust safeguards built into the criminal justice system which led to this result (for a further demonstration, see O'Hara J's judgment into continued anonymity for soldiers A and C). But for Northern Ireland, a robust criminal justice system does not butter political parsnips.

The Past as Politics: A little over a week before the collapse of the prosecution against soldiers A and C, Veterans Minister Johnny Mercer MP resigned his post, criticising the UK Government for allowing "endless investigations" into historic killings involving the armed forces in Northern Ireland. Barely a week after the collapse of the prosecution, The Times reported (paywalled) that the UK Government intends to bring legislation to exempt perpetrators (state and non-state actors) from prosecution for criminality during the Troubles, with the exception of prosecutions for war crimes, genocide or torture. The news met with widespread condemnation across Northern Ireland's political parties. Of course, plans for legislating around legacy prosecutions and investigations were foreshadowed in a statement to the House of Commons by its Leader, Jacob Rees-Mogg MP on 11 February 2021.

However, the present political intervention notwithstanding, it is important to remember that the future of legacy investigations and prosecutions had been agreed very recently: the Stormont House Agreement 2014. Although that Agreement was reached three Northern Ireland Secretaries and two Parliaments ago, it had laid out important points which should give the current UK Government pause for thought. Two points in particular remain as relevant today as they have ever been: the need for independent investigations and prosecution decisions for offences committed during the Troubles and the need for these processes to be compliant with the ECHR. In fact, the 2014 Agreement had committed the Northern Ireland Executive to make the inquest process more compliant with the ECHR (para 31). Draft legislation implementing the 2014 Agreement made explicit reference to general and specific ECHR obligations in multiple clauses, including in clause 6(4) in which a new independent investigatory body was to conduct its investigations "so as to secure that its Article 2 obligations are complied with". It is therefore important to remember that general, sweeping amnesties are not ECHR compliant (see e.g. Marguš v Croatia (App. no. 4455/10; dec. 27 May 2014; GC), [127]).

Comment: Dealing with Northern Ireland's past is self-evidently a much wider and more complex issue than fulfilling manifesto commitments to Northern Ireland veterans, as the Commons Leader had remarked in February. The near-universal condemnation of The Times' report by Northern Ireland's political parties (itself a rare event) is a testament not only to the deep unpopularity of the idea of a general amnesty, but also to a concerningly selective political memory in the corridors of Whitehall and Westminster. This selective memory particularly appears to forget the fact that the procedural duty under Article 2 of the ECHR to conduct an effective, victim-centred, independent, timely and sufficiently transparent investigation into suspicious deaths originated in a State killing directly connected to Northern Ireland.

Ultimately, it is not possible to analyse unpublished proposals. But it is important to appreciate that the precious few steps which have been taken to deal with Northern Ireland's past have been taken in answer to human rights protections and obligations. These must be strengthened, not rendered meaningless.

Prosecuting Mental Health – Accountability or Criminalisation?

Alexandra Kimmons, Transform Justice: The government is set to increase the maximum sentence for people who assault emergency workers – such as police and NHS staff – to two years. That's four times the maximum sentence for assaulting anyone else. Many campaigners and professional bodies see the move as a success. But is harsher punishment an effective solution? And what about incidents where the accused has a mental health condition? We know that violence and abuse towards emergency workers has increased in recent years and during the pandemic. But we don't know exactly how many of these incidents involved people in mental health crisis. Police records are inconsistent, and the mental health flagging system is not fit for purpose. Anecdotal evidence from lawyers suggests that incidents where poor mental health is a factor are common. One lawyer wrote on twitter: "Man charged with assaulting mental health nurses at two different hospitals this year, is it normal practice to charge patients with assaults they commit during the course of their treatment?"

In the past, some police have shied away from charging people who are unwell. But now there is a push to report and charge incidents involving emergency workers, including when the suspect is a patient in treatment for a serious mental health condition. Police and health staff argue that giving a pass to violent behaviour contributes to stigma around mental health and we shouldn't assume that someone with a mental health diagnosis cannot take responsibility for their behaviour. People with mental health conditions need clear boundaries and accountability, they say, and prosecution achieves that. Prosecution certainly sends a clear message. But does it work to change behaviour? And is there a more effective way to support people to establish boundaries and accountability?

Health workers and police say that only those who "know right from wrong" and still "choose" to be violent will be prosecuted. But some psychiatric staff do not want to report incidents of violence and feel that their duty of care to patients is compromised by the push to report. This means that the response to individual incidents varies widely depending on the victim. Some hospitals now send warning letters asking patients to stop inappropriate behaviour as a first step. In theory, this internal safeguard avoids unnecessary police involvement and means that only people who are persistently violent will wind up being prosecuted. But this approach overlooks the complex factors that can contribute to the development of mental health conditions and violent behaviour and jumps to criminalisation.

And violence towards emergency workers in which mental health is a factor does not occur exclusively in clinical settings. It also occurs in our communities, where warning letters may not be an option. Mental health presents differently in different people, and some people in mental health cri-

sis may be perceived as more threatening than others. Who is seen as ill and who is seen as dangerous is influenced by implicit bias surrounding gender, race, and other factors. A tall Black man behaving erratically in public is more likely to be seen as a threat than a small white woman exhibiting similar behaviour. We already know of incidents where people in mental health crisis have died during contact with police. A narrative that assumes people are behaving intentionally could lead to escalation rather than improving responses to those in crisis.

In nine out of ten cases prosecuted under the assault on emergency workers act from 2018 to 2019 the victims were police. Police officers who specialise in mental health insist that policy does not promote charge and prosecution. Unfortunately, there are few alternatives. Some psychiatric hospitals have trialled using restorative justice to respond to incidents, but this doesn't preclude simultaneous legal action. Out of court disposal use appears to be low, despite evidence showing they can be more effective at reducing reoffending. And very little research has been done on the outcomes of criminal sanctions for people with mental health conditions.

As the government finalises plans for a new out of court disposal system, why not consider this group? A conditional caution with requirements designed specifically for those struggling with a mental health condition could provide both accountability and the support needed to improve boundaries and change behaviour. At the end of the day, no one should have to put up with abuse on the job. But we need to think creatively about approaches that actually address the harm caused, not fall back on harsh punishments that don't work and may exacerbate existing difficulties.

Trespassers Won't be Prosecuted? - More Reasons to 'Kill the Bill'

Doughty Street Chambers: What the Acquittal of XR Protestors Tells Us About The Future of Policing Protests. The policing of protests has come under increasing focus this year. Last week's acquittal of XR protestors in Liverpool Magistrates' Court therefore merits a closer look. The case is important because the Government is using it to justify the controversial Police, Crime, Sentencing and Courts Bill ("the Bill"). The protest was against climate change denial in the "Murdoch media". The protestors sat on top of a van blocking the entrance to a printing plant. They were prosecuted for aggravated trespass. At trial, the District Judge acquitted them because he was unsure they had been trespassing at all. The Government condemned the protest as an assault on democracy and the free press. Priti Patel, the home secretary, complained that the acquittals showed how "current legislation used for managing protests is not fit for purpose." This seems to have been a nod to the desirability of the Bill becoming law.

The irony is that the Bill itself threatens to stifle freedom of expression. It could enable protestors to be convicted of serious offences on vague grounds. For example, a person ("P") could be found guilty of "intentionally or recklessly causing public nuisance" under s.59(1) if: 1. P does an act, or omits to do an act, required by any enactment or rule of law; and 2. P either: (i) causes serious harm to the public; or (ii) obstructs the public from exercising or enjoying a right; and 3. P intends or is reckless to their act or omission having that consequence. The definition of "serious harm" under s.59(2) is extraordinarily wide. It ranges from death to "serious annoyance". P does not even have to cause actual harm. P commits the offence even if another person is only "put at risk" of the harm (see s.59(2)(d)). The custodial penalty ranges from a maximum of one year on summary conviction up to 10 years on indictment (see s.59(4)). By contrast, the maximum custodial penalty for aggravated trespass is three months.

Such legislation is open to abuse. Future protestors who block a printing plant (even without trespassing) might be prosecuted under s.59 and face lengthy imprisonment. After all, such unruly

behaviour plainly risks causing serious annoyance to others (not least the home secretary). Vague drafting and harsh penalties are why so many voices are urging the Government to "kill the Bill". If the Bill does become law then it has dark implications for how protests may be policed in the future. "For a country that so often prides itself on civil liberties, this Bill represents an attack on some of the most fundamental rights of citizens", Gracie Bradley, Interim Director of Liberty

European Anti-Torture Committee Warns Against Impact of Austerity Measures on Prisons

The Council of Europe's Committee for the Prevention of Torture (CPT) on Thursday 6th May, issued a set of minimum requirements for conditions of detention in European prisons, concerned by the negative effects of pre-existing austerity measures in certain states, which could be exacerbated by the Covid-19 pandemic. In its annual report for 2020, the CPT recalls that in many of its visits over the years it has found a failure to meet the basic needs of prisoners in certain establishments, which could lead to situations in which prisoners are exposed to inhuman and degrading treatment. The committee points out that that in several Council of Europe states the Covid-19 pandemic is taking place within a budgetary crisis in prison systems which affects prison budgets and the prison staff. During its visits, the CPT has increasingly found that significant cuts have affected the quality of living of detainees, in issues such as food, heating, the regime of activities, access to work and time outside cells.

The CPT notes that austerity measures can increase poverty among prisoners, make items scarcer or more expensive, and restrict inmates' contact by telephone with their families or their ability to make small purchases. This problem can particularly affect prisoners with no income from their families or outside sources, who constitute a significant proportion of the prison population in many countries. The committee considers that all persons deprived of liberty should be provided, at minimum, with ready access to sufficient clean drinking water, adequate food in quantity and nutritional value, decent sleeping and living conditions, and the means to keep clean. Other essential minimal requirements are having ready access to adequate healthcare services, effective access to work and its fair remuneration, access to other purposeful activities and to regular contact with the outside world.

President of the CPT, Alan Mitchell, said: "Persons deprived of their liberty in prisons or in any other institution have a right to enjoy adequate living conditions. "It is crucial to underline that certain of the fundamental social and economic rights of detained persons are indivisible from their right to be treated humanely. A threshold of decency should be respected in prisons at all times, including in the context of austerity measures triggered by economic crises.

Ballymurphy Massacre Campaigner Wins 'five-Figure' Sum From ex-DUP Councillor

Michael Jackson, Belfast media: A prominent victims' campaigner whose mother was killed during the 1971 Ballymurphy Massacre has won a libel case against a former DUP Councillor. Solicitors representing Briege Voyle, whose mother Joan Connolly was shot dead by British soldiers during the Ballymurphy Massacre, had initiated legal proceedings against former Belfast City Councillor Graham Craig over a tweet sent in August 2018. Mr Craig had responded to a tweet in support of the Ballymurphy families from Alliance Councillor, Sorcha Eastwood, whom he falsely branded a "mouthpiece for the Provisional IRA". His tweet made a clear and wholly false and defamatory connection between the Ballymurphy Massacre families and the Provisional IRA. Last year, Mr Craig was ordered to pay damages to Ms Eastwood and issued an unreserved apology, accepting that his comments were completely unfounded and compromised her security.

This afternoon Monday 10th May 2021, Ó Muirigh Solicitors confirmed that Briege Voyle would receive a "five-figure sum of damages" as part of agreed terms-of-settlement. Mr Craig has issued the following unreserved apology to Mrs Voyle, accepting that his comments on social media were completely unfounded. “On August 13 2018, I published a tweet which suggested there were connections between those who represent the families of the Ballymurphy Massacre, amongst whom Briege Voyle is prominent, and the Provisional IRA. I now accept that this is wholly untrue. I apologise for the offence caused and I have agreed to pay her damages and costs”. The settlement comes just a day ahead of the delivery of inquest findings in the case of 10 of the civilians who were killed by the British Army’s notorious Parachute Regiment in Ballymurphy during a 36-hour period in August in 1971. Mrs Voyle will be donating any damages awarded in her favour to the Ballymurphy Massacre campaign, which she chairs.

Her solicitor, Pádraig Ó Muirigh, commented: "Our client has been actively campaigning for the truth of what happened to her mother for 50 years. Throughout that period her mother and other victims of the Ballymurphy Massacre have been vilified and demonized as gunmen and gunwomen. "Despite these unfounded allegations our client and the wider Ballymurphy families have conducted a dignified campaign to clear their loved one’s names which culminates in the Ballymurphy Inquest findings tomorrow. Our client, and the wider Ballymurphy Massacre families, are very well-respected members of the West Belfast community and internationally respected. We will take all necessary steps to vindicate our client’s position in relation to any defamatory comments made against her or other Ballymurphy Massacre families and will not hesitate to issue legal proceedings where necessary."

Restorative Justice? Jumping In and Out of the Grave

Theo Gavrielides, Justice Gap: During my 20 years in the criminal justice sector, I have seen restorative justice jumping in and out of its grave at least four times. Going as back as 2003, the then Labour Government presented its Restorative Justice Plan for introducing restorative justice in the criminal justice system (Gavrielides, 2003). Billions of pounds were spent on various research pilots, a ‘restorative justice unit’ within the Home Office, conferences and training. But restorative justice was never put forward as a consistent and available option for victims, offenders and their communities. I observed then, a weak restorative justice movement, which competed for the same attention and money, often without terms or reflection about the long-term consequences of their alliances. What was even more saddening was that our movement ostracise anyone who dared to raise the mirror of responsibility asking for self-reflection.

Investments in restorative justice re-started in 2013 with £29 million that went to Police and Crime Commissioners to help deliver restorative justice for victims over three years. The money was part of a wider allocated funding for victims of at least £83 million through 2015-16. Furthermore, the government passed the Crime and Courts Act 2013, inserting a new section into the Powers of the Criminal Courts (Sentencing) Act 2000. As a result of this Act, since December 2014, the courts have had the power to defer the passing of a sentence to restorative justice provided that all parties agree.

The Act also requires that anyone practising restorative justice to have regard to the guidance issued by the Secretary of State. Interestingly, both the legislative and the judiciary overlooked this condition for restorative justice sign off by the executive independently of its origin. Put another way, if the restorative justice movement was to deliver restorative justice within the criminal justice system, this will need to be under the watchful eye of the executive (i.e., the responsible Minister at the time). Not to my surprise, many restorative justice organisations saw this development as a great victory that would put restorative justice on the map, while allowing its roll out. It was greeted with enthusiasm and once again my voice was amongst the few who were seen as the trouble makers of our movement.

This change in legislation also enabled a selection of pilot schemes to be undertaken as ‘pathfinders’. In particular, the Ministry of Justice provided funding to three probation trusts to enable them to develop local models for the delivery of pre-sentence restorative justice in magistrate’s courts. Furthermore, with match funding from the Underwood Trust, it invested £2m to run what the press called ‘The first victim-led restorative justice programmes‘. These were run ‘in crown courts across England and Wales in an attempt to cut reoffending rates’. Further substantial funding was also invested by the same Ministry for setting up a register of restorative justice practitioners.

A few years later, the pathfinders and register were independently evaluated and not to my surprise, the results were rather disappointing (Kirby and Jacobson, 2015). Over an 18-month funding period and the engagement of 10 Crown Courts, only 55 pre-sentence restorative conferences and 38 ‘alternative restorative justice activities’ were carried out. A total of 2,273 victims were identified of which contact was successfully made with 1,201 of whom 446 expressed an initial interest in restorative justice. The defendant pleaded guilty in 179 of the cases with interested victims, which resulted in 147 adjournments for restorative justice (Kirby and Jacobson, 2015). The evaluation results summarised that: ‘The overall number of completed restorative justice activities was lower than had been anticipated at the outset of the pathfinder; this reflects a number of significant challenges to implementation’ (Kirby and Jacobson, 2015: 4).

Reality check: These disappointing results of the investments in ‘victim-led restorative justice’ alarmed Parliament and consequently held a public inquiry. An impressive amount of written and oral evidence was submitted, resulting in Parliament saying that ‘ring-fencing funding to Police and Crime Commissioners may appear superficially attractive, but we do not believe budgets for restorative justice could be set in a reliable or sensible manner’ (House of Commons, 2016: 3). The report also reads: ‘It is too soon to introduce a legislative right to access restorative justice services, but such a goal is laudable and should be actively worked towards. We believe a right to access such services should be included in the Victims’ Law, but that provision should only be commenced once the Minister has demonstrated to Parliament that the system has sufficient capacity.’ Parliament also reminded government and other stakeholders that the evidence on the financial effectiveness of restorative justice is still thin. Following evidence from various experts, the Parliamentary report concluded that ‘undue reliance should not be placed on the statistic that £8 is saved for every £1 spent on restorative justice’ (Shapland et al, 2008).

Getting it right: I could not feel more embarrassed as a restorativist and a researcher with membership to the restorative justice movement. How did we get it so wrong, and now can such an opportunity be missed? At the time, these questions were difficult to ask, let alone answer. A few years later, and as these funds started to dry out, accountability was sought within the movement. It then became clear that our internal interest battles and the singing of the sirens were just too strong to ignore. These kind of opportunities are not unique to the UK. They serve as examples for anyone forming part of our movement independently of location. As a new APPG is set up and while policy makers and reformists seek better, cheaper forms of justice, I urge to learn from the mistakes of the past and be driven by evidence. I have asked many times (Gavrielides 2018; 2019; 2020; 2021) to listen to the voices of the users of the criminal justice system whether we call them victims, offenders and their communities. Restorative justice is not owned by anyone. It is an ethos that aims to share power and create bottom up solutions for crime prevention and control.

Children 'Systematically Pleading Guilty' To Crimes That They Did Not Commit

Lucy Waterstone, Justice Gap: Young people are more likely plead guilty when innocent compared to adults and need extra protections, according to a new study. Dr Rebecca Helm, a law lecturer at the University of Exeter, argues in a new article for the Journal of Law and Society that differences in children's brains relating to their sensitivity to pressure and rewards, 'make it more likely they will admit to crimes they didn't commit when incentivized to do so'.

In 2019, more than six out of 10 child defendants in the Crown Court (61%) pleaded guilty with 58% pleading guilty at their first hearing; and almost half of child defendants in the youth court (47%) pleaded guilty at their first hearing. 'The decision making of defendants is important to the legitimacy of convictions in the guilty plea era,' argues Helm, who oversees the online Miscarriages of Justice Registry. 'Child defendants, with their developmentally immature decision-making systems, require specific tailored protections to avoid systematic wrongful conviction. Importantly, developmental vulnerability means that children are likely to be systematically pleading guilty to crimes that they did not commit in predictable circumstances.'

Inevitably, such 'rewards' create pressure for any defendant to plea guilty when they are in fact innocent – particularly as the COVID-19 pandemic has led to defendants being held on remand for well beyond the legal time limit (here). The study argues that these 'rewards' are not appropriate for children, and that reductions should be based on less prescriptive guidelines and individual case circumstances, such as the defendant's age.

According to dr Helm, the criminal justice system 'relies almost exclusively on the autonomy of defendants, rather than accuracy, when justifying convictions via guilty plea'. 'But children don't necessarily have the capacity to make truly autonomous decisions in this context, where they face a variety of really compelling pressures,' she continues. Children were 'likely to misunderstand information, not admit they don't understand and agree with statements, or succumb to pressure from others and the system', she continues. 'The incentives offered to encourage guilty pleas, and time pressures associated with them, are likely to interact with developmental vulnerabilities in children to create an environment in which innocent children are systematically pleading guilty.'

Challenging Racist Stereotypes in the Justice System'.

One day we will ask ourselves how on earth the State was ever allowed to get away with using music as evidence to prosecute Black defendants in serious crime cases. Johnny Cash sang: 'I shot a man in Reno just to watch him die'; no one has ever suggested that he should have been charged with any criminal offence. Meanwhile, here in the UK, the State has prosecuted Black children for murder and asked the jury to conclude they were part of a violent criminal gang purely because they were present in a rap video. This racist stereotyping has got to stop.

In many trials the State's starting point and narrative is racist. Groups of Black youths who have a connection to Drill music, despite their good character and positive aspirations, are wrongly assumed to be members of violent criminal gangs overnight. Police officer 'experts' provide evidence of association in parks and 'on the road', they 'translate' Drill lyrics, so called gang signs and then pronounce on turf and territories. There is often an imbalance when the defence respond. Legal arguments fail to exclude irrelevant or prejudicial material. Defence experts are rarely called. During the summing up, all too often, the prosecution stereotypes remain unchallenged.

The consequences are often devastating with swathes of Black youth being convicted on the back of superficially persuasive gang narratives despite never holding a weapon, being involved in any assault or being part of a gang. The devastation continues with the lurid headlines that accompany the convictions and the vicious circle starts again. But the State doesn't stop there. The police continue to use stop and search in a discriminatory and arbitrary manner; they employ the so called gang matrix to criminally categorise and to keep Black youth under surveillance and they ban Drill artists from performing their music, threatening to lock them up if they don't obey. All of this on the back of centuries of oppression.

Extradition to United States Stayed by European Court

On 10 May 2021, the European Court of Human Rights issued urgent interim relief prohibiting the United Kingdom government from extraditing Mr Singh to the United States. Mr Singh's extradition is sought by the US authorities in relation to drugs offence conspiracies. If convicted, Mr Singh faces a possible sentence of life without parole. The UK courts had dismissed Mr Singh's contention that the US sentence of life without parole was an inhuman and degrading sentence. The UK Courts had concluded that United States' law provided for the possibility of release, and refused to follow the decision of the European Court in Trabelsi v Belgium to contrary effect. The European Court has now issued interim measures staying Mr Singh's extradition indefinitely until the European Court assesses for itself the correctness of Trabelsi, including whether US law provides an adequate possibility of release from a whole life sentence.

Mental Health Made Worse in Pandemic by Class And Poverty

Sadie Robinson, Socialist Worker: Depression has soared during the pandemic—and if you're poorer, younger, female or disabled you're much more likely to have been affected. A report from the Office for National Statistics (ONS) last week looked at depression among adults in Britain in the first quarter of the year. It revealed starkly how money and class shape the quality of people's lives. One in five adults, 21 percent, suffered some form of depression between January and March this year. That's more than double the 10 percent figure before the pandemic. It's also an increase from November, when the figure was 19 percent. A series of measures show that poorer people are much more likely to suffer depression than the rich. Symptoms: Working age adults whose gross income is under £10,000 a year had the highest rates of depressive symptoms of all income groups. Some 37 percent, or nearly four in ten, had suffered depression early this year. The figure for those earning £50,000 a year or more was one in ten. Around 28 percent of adults living in the poorest areas of England suffer depressive symptoms—while 17 percent of those in the richest do. Working age adults whose gross income is under £10,000 a year had the highest rates of depressive symptoms of all income groups.

Serving Prisoners Supported by MOJUK: Derek Patterson, Walib Habid, Giovanni Di Stefano, 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, Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, 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, Robert Knapp, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Peter Hannigan.