Following the re-hearing the Upper Tribunal dismissed AA's appeal against the deportation order. On AA's further appeal the Court of Appeal reinstated the First-tier Tribunal's decision. The Secretary of State now seeks permission to appeal to the Supreme Court. The issues are: (i) What is the correct approach to the test for whether "the effect of [a foreign criminal]'s deportation on [their] partner or child would be unduly harsh" within the meaning of section 117C(5) of the Nationality, Immigration and Asylum Act 2002. (ii) What is the correct approach to the test for whether there are "very compelling circumstances" for not deporting a foreign criminal who had been sentenced to imprisonment for more than four years, under section 117C(6) of the same Act, in light of conflicting approaches being endorsed by the Court of Appeal in Binbuga v Secretary of State for the Home Department [2019] EWCA Civ 551 and HA (Iraq) v Secretary of State for the Home Department [2020] EWCA Civ 1176;and (iii) What is the relevance, if any, of evidence in relation to the foreign criminal's rehabilitation and how much weight should tribunals accord to such evidence in the context of the above tests?

Court of Appeal Overturns Asylum Seeker Convictions

Four Iranian men who crossed the English Channel in small boats have had their convictions for immigration offences quashed. The Court of Appeal said it had not been proven they intended to enter the UK illegally. The men were intercepted by Border Force officials on separate crossings in 2019 and 2020 and were all convicted separately. They had all piloted inflatable boats in crossings organised by smugglers. One of the men, Samyar Bani, claimed he had control of the tiller for a matter of seconds. He was released after serving part of his sentence. He told the BBC: "I lost everything because I came to the UK for an asylum claim. "I'm not a criminal, not a smuggler. I just sat in a boat and came here for asylum claim." Mr Bani, who travelled through Turkey, Greece, Germany and France before reaching the UK, was convicted in June 2019 after Border Force officials saw him piloting a rigid inflatable boat across the channel. The Court of Appeal said the jury in his case had been wrongly told Mr Bani broke the law as soon as he entered UK waters. The case hinged on whether the men intended to land illegally in the UK, outside of a port area. The judges said: "If landing on a beach.then it would be open to the jury to conclude the helmsman assisted an unlawful entry even if the boat was ultimately intercepted. "If, on the other hand, the facilitator knows the only way in which the migrant intends to enter the United Kingdom is being brought ashore by UK Border Force, then he will not be committing an offence." Two other men, Mohamoud Al Anzi and Fariboz Rakei, were convicted of facilitating illegal entry to the UK. A fourth, Ghodratallah Zadeh, was sentenced to two years in prison after pleading guilty to assisting unlawful immigration.

Serving Prisoners Supported by MOJUK: Kieron Hoddinott, 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

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MOJUK: Newsletter 'Inside Out' No 879 (29/12/2021) - Cost £1

CCRC Refers Another "Shrewsbury 24" Case to the Court of Appeal

(24 trade unionists picketed building sites in Shrewsbury during the 1972 national builders' strike. They were charged with offences including unlawful assembly, conspiracy to intimidate and affray. 22 of them were convicted.) The CCRC has referred the case of Thomas "Brian" Williams, a member of the "Shrewsbury 24", to the Court of Appeal. This referral has been made posthumously, as Mr Williams died in 2013. Mr Williams stood trial at Shrewsbury Crown Court in early 1974. At some stage during the trial, he pleaded guilty to affray and unlawful assembly and was later sentenced to a 6-month prison sentence. This was the second of three trials at which a total of 24 men were prosecuted following the events at several building sites in September 1972. These men, 22 of whom were ultimately convicted, became known as the "Shrewsbury 24". In March 2021 the Court of Appeal quashed the convictions of 14 members of the "Shrewsbury 24", following earlier referrals by the CCRC (R v Warren and Others [2021] EWCA Crim 413). Mr Williams's daughter-in-law applied to the CCRC in September 2021, requesting a review of his case. After careful consideration, the CCRC has decided that, in light of the Court's decision in R v Warren and Others, there is a real possibility that the Court of Appeal will quash Mr Williams's conviction too.

Helen Pitcher, Chairman of the CCRC said: "In March of this year, the Court of Appeal quashed 14 "Shrewsbury 24" convictions on grounds relating to the destruction of witness statements and a failure to disclose this fact. In their judgment, the Court concluded that, applying modern standards of fairness, the verdicts in all three trials were 'unsafe.'" "We know that there are another 7 men who were convicted at these trials. The CCRC would urge any of those individuals or their families to get in touch with us so we can also look into these convictions on their behalf."

Man Wrongly Convicted in Killing of Malcolm X Seeks Millions

Muhammad Aziz, one of two men exonerated last month in the killing of Malcom X, filed a civil claim on Tuesday against New York state, seeking $20 million in damages. Aziz cited "more than 55 years living with the hardship and indignity attendant to being unjustly branded as a convicted murderer of one of the most important civil rights leaders in history" in a statement released by his attorneys at The David B. Shanies Law Office. In November Mr Aziz told reporters in a statement: "The events that led to my conviction and wrongful imprisonment should never have happened. Those events were the result of a process that was corrupt to its core -- one that is all too familiar -- even in 2021."

Women Executed 300 Years Ago as Witches in Scotland Set to Receive Pardons

From allegations of cursing the king's ships, to shape-shifting into animals and birds, or dancing with the devil, a satanic panic in early modern Scotland meant that thousands of women were accused of witchcraft in the 16th-18th centuries with many executed. Now, three centuries after the Witchcraft Act was repealed, campaigners are on course to win pardons and official apologies for the estimated 3,837 people – 84% of whom were women – tried as witches, of which two-thirds were executed and burned. After a two-year campaign by the

Witches of Scotland group, a member's bill in the Scottish parliament has secured the support of Nicola Sturgeon's administration to clear the names of those accused, the Sunday Times reported. The move follows a precedent by the Massachusetts House of Representatives in the US that proclaimed victims of the Salem witch trials innocent in 2001.

Scotland's indefatigable pursuit of witches between 1563, when the Witchcraft Act was brought in, and 1736, when it was finally repealed, resulted in five "great Scottish witch-hunts" and a series of nationwide trials. The earliest witch-hunts were sanctioned by James VI of Scotland, later James I of England and Ireland, who believed witches plotted against his Danish bride by summoning up storms to sink his ships. Among those accused in 1590 was Geillis Duncan – whose character featured in the Outlander TV series – and who admitted under torture to meeting the devil to thwart the king's ships. Another, Agnes Sampson, had confessed that 200 women witnessed the devil preach at North Berwick on Halloween where the king's destruction was plotted. Other well-known cases include Lilias Adie, from Torryburn, Fife, who was accused of casting a spell to cause a neighbour's hangover; while Issobell Young, executed at Edinburgh Castle in 1629, was said by a stable boy to have shape-shifted into an owl and accused of having a coven.

With witchcraft a capital crime, the convicted were usually strangled to death then burned at the stake so as to leave no body to bury. Many confessed under torture, which included sleep deprivation, the crushing and pulling out of fingernails, and pricking of the skin with needles and bodkins to see if the accused bled. The Witches of Scotland website notes that signs associated with witchcraft – broomsticks, cauldrons, black cats and black pointed hats – were also associated with "alewives", the name for women who brewed weak beer to combat poor water quality. The broomstick sign was to let people know beer was on sale, the cauldron to brew it, the cat to keep mice down, and the hat to distinguish them at market. Women were ousted from brewing and replaced by men once it became a profitable industry.

Claire Mitchell QC, who leads the Witches of Scotland campaign, said it was seeking pardons, apologies and a national monument to the mainly female victims of the witch-hunts. "Per capita, during the period between the 16th and 18th century, we [Scotland] executed five times as many people as elsewhere in Europe, the vast majority of them women," she told the Sunday Times. "To put that into perspective, in Salem 300 people were accused and 19 people were executed. We absolutely excelled at finding women to burn in Scotland. Those executed weren't guilty, so they should be acquitted."

John Twiss: Presidential Pardon Issued for 1895 Cork Murder

A man who was hanged for a murder in County Cork in 1895 has been issued a posthumous pardon by the president of Ireland. John Twiss, 35, who was from County Kerry, was convicted of the killing of caretaker James Donovan on a farm near Newmarket. Reports from the time suggest the execution at Cork Prison on 9 February, 1895, was controversial, and prompted a petition for a prerogative of mercy to be issued which attracted 40,000 signatures. President Michael D Higgins acknowledged that was "a very substantial number to collect at that time in rural Ireland". He explained that the governor of the prison, the prison chaplain and the jury in the coroner's inquest, all believed that Mr Twiss was innocent. 'A Great Wrong' The president's ruling took account of a report by University College Dublin Prof Niamh Howlin, who found there was circumstantial and "flimsy" evidence in the case which had followed a "questionable investigation. The problematic aspects of this case are like 'strands in a rope' which together lead to the conclusion that the nature and extent of the evidence against Twiss could not safely support a guilty verdict.

Direct Access to Barristers 'Could Improve Justice Outcomes' for Ethnic Minorities

Monidipa Fouzder, Law Gazette: Government statistics for 2020 confirm significant racial disparities in the criminal justice system. People from ethnic minority groups were more likely to be remanded in custody at Crown court than white defendants. Since 2016 white defendants have had a consistently lower average custodial sentence length than other ethnic groups. A third of children in prison were black despite black prisoners accounting for only 13% of the entire prison population. In his landmark 2017 race review, David Lammy MP highlighted defendants' lack of trust in legal aid solicitors and recommended experimenting with different approaches to explain legal rights and options to defendants – such as earlier access to advice from barristers. The foundation said: 'The Lammy review called for greater experimentation in this area. It also called for defendants to receive earlier access to legal advice from barristers, rather than having to initially go through solicitors, in order to build trust with a single contact. It was suggested in our roundtable that this direct access route could be better publicised because awareness seems to be low at present.' The foundation suggests policymakers consider promoting 'direct access' to barristers. Other suggested steps include removing the requirement to plead guilty to be eligible for out of court disposals, which may require the Police, Crime, Sentencing and Courts Bill to be reworded. 'Given the over-representation of ethnic minorities in drug convictions, low-level drug offences should be prioritised for such measures,' the report says.

RA & HA (Iraq) (Respondent) v SSHD - Permission to Appeal be Granted

HA and RA are non-British nationals from Iraq. Both of them are in settled relationships with British women and they both have a child or children who are British nationals. They both committed criminal offences for which they were sentenced, HA to 16 months' imprisonment and RA to 12 months' imprisonment. The Secretary of State decided to deport HA and RA but they each successfully appealed to the First-tier Tribunal. Following the Secretary of State's successful appeal to the Upper Tribunal, the Upper Tribunal remade the deportation decision in each of their cases. The Upper Tribunal decided that the effect of HA's or RA's deportation on their partner and children would not be "unduly harsh" under section 117C(5) of the Nationality, Immigration and Asylum Act 2002 and that there were no "very compelling circumstances" which would make deportation a disproportionate interference with HA's or RA's Article 8 ECHR rights (or the Article 8 rights of their partners or children) under section 117C(6). HA and RA appealed to the Court of Appeal and the Court of Appeal allowed their appeals. The Secretary of State now appeals to the Supreme Court. The issue is: In what circumstances is it "unduly harsh" to deport a foreign criminal in light of that person's family life in the United Kingdom, and when are there "very compelling circumstances" against deportation?

AA (Nigeria) (Respondent) v SSHD - Permission to Appeal be Granted

AA was a 32-year-old citizen of Nigeria with no right to remain in the United Kingdom. In 2013 he was convicted of conspiracy to supply class A drugs and sentenced to 4½ years' imprisonment. Following his release the Secretary of State made a deportation order on the ground that he was a foreign criminal. AA sought to challenge that order by relying on his right to private life under article 8 of the European Convention on Human Rights and on the rights to family life of his partner and children. The First-tier Tribunal allowed his appeal on the grounds that his deportation would disproportionately interfere with the rights of his partner and two children under article 8. The Upper Tribunal set aside the First-tier Tribunal's decision and directed that the appeal be re-heard.

How can we begin to successfully tackle these illegal 'businesses' that prey on our young and cause such misery to society? The seeds to this problem were sown in the 1990s when youth crime came to the public's attention. Think Ram Raiders, Rat Boy, and the devastating cases of Jamie Bulger and Damilola Taylor. These, amongst others, highlighted how ill equipped the authorities were at managing the social wrongs that had seemingly led to these problems. Not much appears to have changed today, despite the numerous promises of 'lessons to be learnt'. While widely accepted that the vast majority of those used to pedal drugs, or commit other crime, are vulnerable victims themselves, they have seemingly had very little protection provided by the authorities. Granted we have the Modern Slavery Act; however, this is so limited in scope that it does not even properly protect those victims it was introduced to help.

Under New Labour, money was thrown into effective initiatives, youth centres, social services, and charitable organisations. This allowed them to enter communities, support and protect the vulnerable, and work closely with police forces who had a visible presence on the 'beat'. Twelve years of austerity and a Conservative government have dismantled these protections – the likes of secure units have been closed, youth services cut, and police numbers reduced. It even took a Premier League footballer to provide them with a conscience to feed our hungry children during the pandemic.

The government launched crime week with the introduction of measures to tackle county lines and drug activity. They have promised the allocation of £780m as part of a 10-year drug strategy in England to fund drug rehabilitation systems. This also includes £300m for combating more than 2,000 county lines gangs. Should this money ever materialise, and the detail of this apparent generosity needs to be scrutinised, these measures are welcome, but are long overdue and don't go far enough. We need a coordinated and holistic approach to eradicate the cause and to stem the grooming of our young from the offset. Social services, schools, local communities, the police, and the criminal justice system need significant funding to work together. Without imaginative and constructive work there is little hope that the county lines disease will be cured, and our children will continue to be failed by the state.

Georgia: Violence Against LGBT Demonstrators With State Connivance Violation of Article 3

The case Women's Initiatives Supporting Group and Others v. Georgia (application no. 73204/13 and 74959/13) concerned an attack by a mob on LGBT demonstrators on 17 May 2013 – the International Day Against Homophobia – in central Tbilisi. In today's (Thursday 16th December 2021) Chamber judgment1 in the case the European Court of Human Rights held, unanimously, that there had been: a violation of Article 3 (prohibition of inhuman or degrading treatment) in conjunction with Article 14 (prohibition of discrimination) of the European Convention on Human Rights both on account of the authorities' failure to protect the peaceful demonstrators from homophobic and transphobic aggression and of the ensuing inadequate investigation. a violation of Article 11 (freedom of association) taken in conjunction with Article 14.

The Court found in particular that the authorities had failed to take measures to protect the LGBT demonstrators from the mob, despite being aware of the risks associated with the event. There was furthermore evidence, namely video footage by independent journalists, of official connivance in the acts of violence and underlying prejudice. Indeed, the Court could not exclude the possibility that the unprecedented scale of the violence had been influenced by the authorities' failure to carry out a timely and objective investigation into the attacks on the LGBT community during the previous year's event, which was also the subject of a case before the Court where violations of the Convention were found.

Ukraine: Ban on Talking to Other Inmates Violation of Article 3

In Chamber judgment in the case of Ivan Karpenko v. Ukraine (application no. 45397/13) the European Court of Human Rights held, unanimously, that there had been: a violation of Article 3 (prohibition of inhuman and degrading treatment) of the European Convention on Human Rights, and a violation of Article 13 (right to an effective remedy) in conjunction with Article 3. The case concerned the regime – a ban on talking to prisoners from other cells – in which Mr Karpenko had been held while serving his life sentence. The Court found in particular that the ban had been in breach of European Prison rules and had been compounded by several serious aggravating factors which had amounted to treatment in violation of the Convention.

Principal facts: The applicant, Ivan Ivanovych Karpenko, is a Ukrainian national who was born in 1973 and is imprisoned in Romny Prison no. 56 (Ukraine). He has been serving a life sentence since 2004. On 13 June 2009 Mr Karpenko greeted a fellow prisoner during a walk in the prison yard. A guard remarked to them that contact was prohibited and reported the incident to the prison management. Mr Karpenko was formally disciplined ("given a warning") as a result. Mr Karpenko lodged an administrative complaint, which was rejected by courts at two instances owing to lack of jurisdiction. A subsequent appeal on points of law was dismissed by the Higher Administrative Court.

The applicant took the prison to the civil courts, seeking to have the disciplinary measure declared unlawful, and claiming compensation. That suit was rejected at first instance and on appeal again for lack of jurisdiction with Mr Karpenko being denied permission to lodge an appeal on points of law. The applicant unsuccessfully complained on at least thirteen occasions between 2009 and 2017 of the deterioration of his physical and mental health on account of the lack of contact with other prisoners, seeking medical and psychological treatment in that regard. He also unsuccessfully sought access to vocational training.

Supreme Court Rules: 'Hooded Men': PSNI Wrong Not to Investigate Torture Claims'

BBC News: The Supreme Court has ruled that the Police Service of Northern Ireland (PSNI) was wrong not to investigate allegations that 14 men were tortured in Northern Ireland in 1971. The men, known as the 'Hooded Men', were interned without trial during the Troubles. The judges said the decision by the PSNI, made in 2014, was "irrational". The court also said the men's treatment was "deplorable" and was "deliberate policy". However, the Supreme Court did not accept that the PSNI was not sufficiently independent to carry out a new investigation into the "Hooded Men" case. Lord Hodge said: "In our view, it has not been established that the LIB (Legacy Investigations Branch) is not capable of carrying out an effective investigation on the basis either of institutional or hierarchical connection or that it is not capable of conducting an investigation with practical independence."There is nothing to suggest that it would not be possible to assign appropriate officers of the PSNI to carry out any further investigations to a proper standard."

Key conclusions: The PSNI was not under an obligation to investigate the authorisation of the ill-treatment of the 'Hooded Men' under article three of the European Convention on Human Rights, which prohibits torture - The Chief Constable did not create a "legitimate expectation" that the PSNI would investigate those responsible for authorising the ill-treatment of Mr McGuigan and Mr McKenna, two of the 'Hooded Men' - The PSNI decision taken in October 2014 not to investigate the statements in the Rees Memo, a correspondence sent by then-Home Secretary Merlyn Rees to the Prime Minister James Callaghan in March 1977, which said the government had authorised the use of torture methods, was "based on a seriously flawed report" and was "therefore irrational", so falls to be quashed

One of the men, Francis McGuigan, said it had been a frustrating process to get to this point. "It's been rough - we're seven years in and out of court and we seem to win each time we go into court, but we seem to get no further forward," he said. I'm hoping now… it can go nowhere else, we've appealed to the highest court in the land and we won there as well. So I'm looking forward now to the investigation into it, the results of the investigation into it and hope that eventually the truth comes out that the British government sanctioned torture against its citizens." His solicitor Darragh Mackin described the decision as "a landmark victory". Mr Mackin added that the government's legacy proposals should not affect a police investigation into what happened to the men. "That legislation is not only about an amnesty, it goes much beyond that, it is about removing an individual's access to justice," he said. "Today is exactly why the British government are bringing about such proposals. Given that we're talking about the crime of torture, no proposal that the British government seeks to advance would any event stymie such an investigation." Deirdre Montgomery, whose late father Michael was one of the "Hooded Men", said she was "absolutely elated" for her family and for her "father's memory". She told BBC News NI's Evening Extra programme that she received therapy for what happened and her "children have been affected" by the legacy of the events.

The 'Hooded Men' have long called for a new, independent investigation into their treatment, saying there were subjected to "deep interrogation" by the Army during their detention. The men said they were forced to listen to constant loud static noise; deprived of sleep, food and water; forced to stand in a stress position and beaten if they fell. They also said they were hooded and thrown from helicopters a short distance off the ground, having been told they were hundreds of feet in the air. In 2014, an RTÉ documentary unearthed fresh evidence, but the PSNI decided there was not enough evidence to warrant an investigation. In 2019, Lord Chief Justice Sir Declan Morgan, Northern Ireland's most senior judge, said their treatment "would, if it occurred today, properly be characterised as torture". Another of the three judges at the Court of Appeal in Belfast dissented with that conclusion. The court was ruling on an appeal by police against a ruling that detectives should revisit the decision to end their inquiry.

In a statement, Assistant Chief Constable Jonathan Roberts said the PSNI acknowledged Wednesday's court judgment and welcomed "the clarity it brings to some complex legal issues. We recognise the difficult realities that victims, families, friends and broader society continue to deal with as a result of our troubled past," he said. We will now take time to study today's judgment around these complex legacy issues in detail and we will carefully consider its implications for future legacy investigations. If we are to build a safe, confident and peaceful society, then we must find a way of dealing with our past and we are committed to playing our part in that process."

The Supreme Court also looked at a second Troubles-era case - the 1972 shooting of Jean Smyth-Campbell. Ms Smyth-Campbell was 24 when she died after being shot as she sat in a car on the Glen Road in west Belfast in 1972. Her death was initially blamed by police on the IRA, but an undercover Army unit has since been linked to the shooting. In March 2019, the Court of Appeal in Belfast ruled that the PSNI would not be independent in carrying out a new investigation into the death.On Wednesday 15th December 2021, the Supreme Court found that the proposed investigation "would not have been effective in the particular circumstances of that case because the Chief Constable of the PSNI had failed to explain to her family and the public, and when faced with the judicial review challenge, the court, how he proposed to secure the practical independence of that investigation". In a statement following the ruling, Ms Smyth-Campbell's sister Margaret McQuillan, said: "Our family has today been vindicated by the ruling of the

Coroner Service, again evidencing the importance of legal aid for inquests and injustice of the current system. In response to the Justice Committee inquiry the Government announced this change.

The change is a huge step forward. It will make the process fairer for many bereaved people, who face teams of state lawyers at inquests that are defending the interests of organisations who may have caused or contributed to the death. Previously, while state bodies automatically access public funding for lawyers, families who were grieving had to complete long and intrusive forms. They had to declare all their assets and financial information, including any valuables which could be sold to cover costs. Families who were forced to pay sometimes had to contribute tens of thousands of pounds, with many having no choice but to ask the public to help through crowdfunding (see examples). From 12 January 2022 that means test will be removed, and families entitled to Exceptional Case Funding will no longer have to pay. This progress is a testament to the hard work of thousands of bereaved families who have spoken out about their experiences, as well as lawyers, supporters, and the staff of INQUEST past and present.

Now we must celebrate the implementation of this important change, which has been hard won through persistent campaigning. Tomorrow, the campaign continues. There is crucial work required to expand this change to cover the Legal Help process, which ensures families get essential early legal advice. The changes also fall short of satisfying recommendations made by countless reviews to ensure that bereaved families at all inquests where the state is represented or involved are publicly funded for their legal representation. Funding must also be made available for cases that would or may sit outside Exceptional Case Funding criteria but where the actions of state bodies require scrutiny, as INQUEST has proposed in amendments to the Judicial Review and Courts Bill. We will continue the legal aid for inquests campaign until there is automatic non-means tested publicly funded advice for bereaved people from the day of a death at all inquests involving the state and corporate bodies. Only then will bereaved people have the access to justice and greater equality of arms that is required.

County Lines: How the State is Failing our Young

Julian Hayes, Law Gazette: 'County lines' is the name given to the criminal activities of gangs who transport drugs across the country while using generic mobile phone lines to allow dealers and customers to communicate their sale and distribution. This ‘business’ model, and whether we like it or not, it is a business, albeit illegal, relies upon a number of key features to allow them to operate with apparent alacrity. Recently, the police have targeted the communication lines to try and dismantle these activities, however this strategy has been somewhat ineffective. No sooner are lines closed and those connected arrested, new ones are opened or the ‘seized’ lines are reactivated with apparent ease. This cannot simply be put down to the technology alone. What has been overlooked is the comparative ease with which these gangs can lure, cajole or bully children and young persons to work for them and thus provide a continuous supply of ‘labour’ to ‘run’ drugs for them.

The grooming of children by the unscrupulous is by no means a new concept, you only have to read Dickens to see that. Governments have consistently failed to tackle this most fundamental of problems, gangs are still able to operate effectively, cynically preying on the most vulnerable – those in care, truanting, or excluded from school, and homeless. With the promise of cash, a 'family' and the home that may be lacking, protection from violence, and 'role models' that they may never have had, these vulnerable children fall into the grip of gang life. These ‘businesses’ inevitably lead to turf wars, and it is by no coincidence that we have witnessed a rise in violent crime leading to an epidemic of death and serious injury amongst young men.

period of time those who are still in prison on IPP, and that is extraordinarily different to get out of if we do not take urgent measures.' Blunkett again took responsibility for the 'disaster' of introducing IPPs without securing funding for their effective implementation (see here).

Lord Thomas was asked how judges would respond to an IPP resentencing exercise given the 'considerable backlog' facing the courts. 'I do not think you should be deterred by backlog,' he said. 'I do not think judicial manpower is the problem. Resources might be a problem. It seems to me that there is something wrong with the system.' 'We ought to accept that, as something has gone wrong, justice requires that we look at them; we take into account the protection of the public, but we also look at the injustice that has been done to them, particularly if, as I believe to be the problem with some of the cases I saw, their imprisonment has made them worse and less susceptible to release than had they been given a determinate sentence.'

Speaking later in the session, Professor Hardwick, former Parole Board chair, said that there was a range of options and that there was 'not one thing that works for everybody'. 'The IPP prisoners who have already served the maximum tariff – the maximum potential length of a sentence for that offence – are the most egregious cases, and there is a case for compassionate release for those prisoners. That would be a quick way of dealing with it.' Lord Blunkett paid tribute to the IPP families including UNGRIPP. 'The families suffer along with the individual who has been sentenced. The longer it goes on, the more distress to them. We owe them an obligation not just to provide the normal support you would expect to get for a family that is desperately trying to help someone in prison… but to offer whatever emotional support is required.' He said he has heard from 'literally hundreds' of families who have made clear their distress.

Means test Removed in Legal Aid for Inquests - Campaign Progress

INQUEST: Exceptional case funding for inquests will no longer be means tested from 12 January 2022, the Government has announced. This positive move means bereaved people facing Article 2 inquests will no longer face an intrusive and protracted means test application process. It will make funding available to more families who previously faced paying huge costs towards legal representation. It is an acknowledgment by Government that the current funding of inquests is fundamentally unfair. This will help ensure more bereaved families have a voice and can meaningfully participate in the inquest process. It is also in the public interest, as inquests where families are represented can result in changes to policy and practice intended to prevent future deaths.

INQUEST has fought alongside bereaved people and lawyers on this issue since the organisation began 40 years ago. We have long called for automatic non means tested funding for legal representation of bereaved people following state related deaths. Since 1999 numerous official reports have supported this call. While there have been some steps forwards over these years, successive Governments have long denied access to justice to bereaved people. In 2019, the Ministry of Justice had the opportunity to implement change following a consultation and review of legal aid for inquests. Despite overwhelming evidence and widespread support, they denied bereaved people of the changes required. This was a betrayal of the families who took part in the review in good faith. With them INQUEST launched our Now or Never! Legal aid for inquests campaign. A range of organisations have signed up as supporters and over 97 thousand people signed our petition.

The decision to remove the means test is an important acknowledgement from the Government and Ministry of Justice of the fundamental unfairness of the current system for legal aid for inquests, which thousands of bereaved people have faced at huge financial and personal cost. This year, alongside bereaved families, INQUEST contributed to the Justice Committee inquiry on The

British Supreme Court. They have confirmed the Police Service of Northern Ireland failings in the case. The PSNI have already apologised for these failings. We believe, however, that the PSNI cannot be trusted, now or ever, in any legacy case, by any family."

In June 2019, the PSNI asked former Bedfordshire chief constable Jon Boutcher to investigate the killing. Referring to this case, the assistant chief constable said the PSNI welcomed the "clear legal ruling" that the PSNI did not have any legal obligations under article two of the European Convention on Human Rights to investigate the case. We will now carefully consider the judgments and their impact on the legacy caseload," Jonathan Roberts added.

'Justice delayed' First Minister Paul Givan said the case of the 'Hooded Men' and other Troubles incidents showed the need to "find a way forward that allows us to provide that truth, also that justice, and make sure we can move into the future". Whether it's this case or whether it's other cases that happened within Northern Ireland dealing with the past is something that needs to be resolved. It continues to have implications for the present and for future generations. Deputy First Minister Michelle O'Neill said she welcomed the ruling and "it was over to the PSNI to do their job". They should have investigated this. These men have been tortured, it's been confirmed internationally, everybody recognises that is the case." Grainne Teggart from Amnesty International described the 'Hooded Men' decision as a "victory for justice". She said police had "shamefully added to the trauma already inflicted and has delayed the truth, justice, and accountability to which these men are entitled".

Re-Traumatised by a System That Failed Them': Rape Survivors and Wrongful Convictions

Emily Bolton, Justice Gap: The year is 1981. A woman is walking home through a park in Syracuse, New York whilst a freshman at university. She was grabbed from behind in a tunnel, thrown to the ground, kicked, beaten and choked before being brutally raped. She managed to get back to her university campus and report the crime but no suspect was found. For years afterwards Alice Sebold struggled to rebuild her life, suffering from Post-Traumatic Stress Disorder (PTSD) that included symptoms of hypervigilance, depression and recurring nightmares. She self-medicated with drugs and alcohol and – as way of trying to seize back control of her life – she wrote Lucky, a book about her experiences, which became a bestseller and turned Sebold into a well known writer. Fast forward 22 years to 2003. The location is Little Hulton, an area in Salford, north England. In the early hours of the morning, during a warm summer, a mother-of-two is walking home alone having had an argument with her boyfriend. In an attack as savage as that inflicted on Sebold, she was strangled, raped and left for dead by a stranger. The horrific nature of the attacks against these women and the lasting impact they have had are not the only similarities in these stories. In each case, an innocent man was convicted of the crime. Each spent around 17 years in prison and further years living with the restrictions and stigma that come with being a registered sex offender.

In Alice Sebold's case the man convicted of the crime was Anthony Broadwater. In the UK case it was Andrew Malkinson, a 37 year old working as a security guard, who was arrested after two officers put him forward as a suspect upon hearing the woman's description. Last month, Mr Broadwater had his conviction overturned by a New York Supreme Court Justice. Mr Malkinson is APPEAL's client and – armed with new DNA evidence proving that an unidentified male carried out the rape – is fighting to clear his name. His application is being considered by the Criminal Cases Review Commission for the third time. It was the police and the prosecution's approach to these cases that caused the wrongful convictions, not the vic-

tims simply 'picking the wrong guy'. Had better investigations of these rapes been carried out, these men would never have been in the line ups viewed by the victims in the first place. In each case, the evidence linking these men to the crime was weak while public pressure to secure a conviction was strong. Each conviction rested largely on evidence obtained in flawed witness identification parades, where legal guidance was breached. In each case, the police failed to retain crucial exhibits, limiting the opportunities for new DNA enquiries.

Systematic racism and misleading forensic evidence ('junk science') were key features in Mr Broadwater's conviction, but these are not issues unique to the US. People of colour are over-represented at every stage of the criminal justice system in England and Wales, as has been shown in various studies, most famously in David Lammy's 2017 review (whose recommendations are yet to be implemented). Although data is not currently being collated that would answer the question of whether people of colour are more likely to be wrongfully convicted, it is likely to be the case based on what we know about systemic racism in the criminal justice system.

Discredited forensic evidence has contributed to the wrongful convictions of at least 74 people in England and Wales since 1972, most famously of Barry George who was wrongfully imprisoned for the murder of Jill Dando. The only evidence linking George to the murder was a microscopic particle of gunshot residue found on his coat that was later shown to have been just as likely to have come from extraneous sources. The National Registry of Exonerations in the US showcases many instances where similar flawed scientific techniques have ended in miscarriages of justice. In Mr Malkinson's case, the police and prosecution failed to hand over evidence that seriously undermined the credibility of key prosecution eyewitnesses. Again, this was far from an isolated incident. Disclosure failures have contributed to the wrongful convictions of more than 145 known individuals since 1972, who have collectively spent 520 years wrongfully imprisoned. It's important to bear in mind that, based only on publicly available information, these statistics likely represent the tip of the iceberg – the rate of erroneous convictions of innocent criminal defendants is often described as 'not merely unknown but unknowable'.

In Mr Broadwater's case, there was clear police misconduct as police officers convinced the 18-year-old Ms Sebold, who was highly vulnerable and suggestable, to pick out a different man from the one she had initially identified in the police line-up. In Mr Malkinson's case, police failed to thoroughly investigate alternative suspects, breached legal guidelines when conducting the identification procedures and later unlawfully destroyed evidence. The cases of Mr Malkinson and Mr Broadwater are paradigmatic of what is wrong with the US and English justice systems, each garlanded as supposedly being the fairest in the world. In neither case should blame for the conviction lie with the traumatised rape victims who identified the men. The responsibility to carry out a fair and thorough investigation lies firmly with law enforcement. In Mr Malkinson's case, police should never have placed him in a line up – as his face did not bear the deep scratch the victim said she gave to her attacker – while some alternative suspects "were never traced, including one, rather more than one who had previous convictions for rape".

Responsibility for the decision to prosecute based on flimsy evidence lies with the prosecution. The four decades that it has taken Mr Broadwater to clear his name and the fact that 18 years later, Mr Malkinson is still trying, are indicative of ineffective appeal systems. None of this is the fault of the victims. Yet, in the wake of the media furore that has accompanied Mr Broadwater's exoneration, Ms Sebold has been vilified for her role in the conviction. The criminal justice community must be careful with its use of language when talking about identification parades and wrongful conviction. 'She picked out the wrong guy' is not only victim-blaming, it distracts

from the real problem – one which many would rather ignore: our criminal justice system is in desperate need of root and branch reform. As American campaigner Jennifer Thompson – herself a survivor of a rape for which an innocent man was wrongly convicted – says, 'the general public has zero comprehension about trauma to the brain and our ability to encode information. We are asking people who have just been violently attacked or people who have just witnessed something horrific to be the key piece of evidence. It's not the role of the victim to solve a crime, it is the investigators and prosecutors'. And when they fail, of course, the real perpetrator is left at liberty to commit other crimes, like the man actually responsible for attacking Ms Thompson, Bobby Poole. Ms Thompson is emphatic: 'In wrongful conviction cases there are no winners, except the perpetrator. Crime victims and survivors do not want innocent people to go to prison.'

France: Gardener Omar Raddad Wins Fight to Re-Open Notorious Murder Case

A Moroccan gardener convicted of the gruesome murder of a rich French widow 30 years ago has won his bid to reopen the case and try to clear his name. In one of France's most notorious murder cases, Omar Raddad, now 59, was found guilty of stabbing to death his employer, Ghislaine Marchal, 65. The case hinged on a blood-scrawled message on a door by her mutilated body, reading: "Omar killed me". But the note contained a glaring grammatical mistake. Instead of using the past participle verb for "killed" (tuée), the inscription used the infinitive (tuer). Mr Raddad's lawyers argued that he had been framed because Marchal - a wealthy and well-educated woman - would never have made such an error.

The case has long gripped France, drawing accusations that Mr Raddad, an immigrant, was the victim of discrimination. Books and films depicted the conviction as a miscarriage of justice. In 1996, two years after he was sentenced to 18 years in jail, Mr Raddad was partly pardoned by then-French President Jacques Chirac. He was freed from prison but his conviction was never overturned.Mr Raddad lodged an appeal for his case to be reopened this June, after new DNA evidence emerged. The traces of four unknown men were found at the scene in 2015. One of the them, Mr Raddad's supporters say, is the real murderer who framed him.

Sylvie Noachovitch, Mr Raddad's lawyer, said he had been given fresh hope by the decision by France's top appeals court to re-examine the evidence. "This ruling is a step towards a reversal of the conviction," Ms Noachovitch said, "but the battle is not over." She said she hoped the reopened case would "rectify one of the biggest judicial errors of the 20th century". Marchal's family still maintain that the former gardener is guilty of killing the socialite at her villa on the French Riviera.They say the DNA traces have been contaminated. And at Mr Raddat's trial, they said she had a habit of making grammatical errors.

IPP Prisoners Should be Resentenced Immediately, says ex Lord Chief Justice

Jon Robins, Justice Gap: A former Lord Chief Justice has told MPs that all prisoners serving indeterminate IPP (Imprisonment for Public Protection) sentences should be re-sentenced immediately. Giving evidence to the House of Commons' justice committee, Lord Thomas of Cwmgiedd said: 'I was surprised that as long ago as 11 years ago it was suggested to the Treasury that we should look at this again and start to re-sentence. I believe we ought to get on with it being an option. It is the only fair and just thing to do.' MPs also heard from David Blunkett, New Labour Home Secretary who introduced the discredited IPPs in 2003. He said: 'We are in a really dangerous moment with 1,700 still in prison and 1,300 who have been recalled on licence, with the number being recalled on licence estimated to exceed within a very short