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CCRC Refers Conviction Due To Concerns About Prosecution Witness

CCRC has decided to refer Mr Uthayathas Balasubramaniam's 2004 conviction for conspiracy to commit assault occasioning actual bodily harm to the Court of Appeal, after new information came to light about a key prosecution witness. On 6 November 2001 Sellathurai Balasingham was attacked and beaten to death by a group of men near to his home in South London. Mr Balasubramaniam was one of a number of men charged with his murder. Prior to his trial at the Old Bailey, one of Mr Balasubramaniam's co-defendants offered to plead guilty to a lesser offence and give evidence for the prosecution.The prosecution case against Mr Balasubramaniam relied upon a version of events provided by this man, who became the principal prosecution witness. Before giving evidence at the trial, he disappeared and his statement was read to the jury under the "hearsay" provisions of the Criminal Justice Act 2003. The jury acquitted Mr Balasubramaniam of murder but convicted him of conspiracy to commit actual bodily harm. Mr Balasubramaniam unsuccessfully appealed against his conviction in 2010.

Following several appeals and re-trials, the Court of Appeal quashed the convictions of all but one of Mr Balasubramaniam's co-defendants in 2011. During those proceedings new information came to light, including an undisclosed "deal" with the prosecution, which called into question this witness's credibility. The CCRC was contacted by Mr Balasubramaniam in April 2019. Following a detailed review of his case, the CCRC has decided that there is a real possibility that the Court of Appeal will now quash his conviction because this witness can no longer be regarded as credible.

CCRC Chairman Helen Pitcher said: "This case is a good example of why the CCRC is such an important part of our Criminal Justice System. New information has come to light, years after Mr Balasubramaniam's trial which now calls into the question the safety of his conviction. We've carried out a thorough, independent review of the case and decided that it needs to be looked at again by the Court of Appeal." Mr Balasubramaniam is a Sri Lankan national who voluntarily returned to Sri Lanka in 2012 when his various applications for leave to remain in the UK were refused. There is a Home Office exclusion order against him preventing his return to the UK although his spouse is a UK resident. The CCRC is also appealing for Mr Balasubramaniam's final co-defendant, Mr Kumarasritharan Mukundan, to come forward, so his case can be considered too. Mr Balasubramaniam was represented by James Nicholls of Birds Solicitors Ltd in his application to the CCRC.

Gary Walker: Ex-Police Officer Freed After Retrial Over 2003 Death of Girlfriend

Jessica Murray, Guardian: A former police officer who spent more than 17 years in prison after being convicted of killing his pregnant partner has been freed after being found not guilty at a retrial. Gary Walker, now 57, was sentenced to life imprisonment in October 2004 for murdering Audra Bancroft at their home near Burton upon Trent. After a retrial at Warwick crown court, Mr Justice Holgate QC agreed with a submission by Walker's barrister, David Emanuel QC, that there was no case to answer. The retrial heard evidence that Bancroft, 36, died as a result of a paramedic moving her from the recovery position on to her back and propping her head up, where she stayed for five hours, leading to positional asphyxia. The ruling was challenged by the prosecutor, Rachel Brand QC, but after a hearing at the court of appeal on Friday, it was upheld. Walker was found guilty and sentenced to a minimum of 12 years in prison after the prosecution alleged he had strangled Bancroft on 8 December 2003 shortly after finding out she had accrued £4,000 in debt on a credit card. He has continually maintained his innocence. During the retrial it was alleged Walker had met Bancroft on a street as he was returning from a night shift at Avonmouth police station, where he assaulted her before "frog-marching" the mother-of-three back to their home in Shipley Close, Branston. "Witnesses who lived in Shipley Close heard voices in the street, and on looking out of their windows they saw the defendant propelling Audra Bancroft along, holding on to her with his hand under her armpit, almost dragging her along," Brand told jurors. "We say that he continued to assault her when he got her home." Brand told the court that immediately after the incident, Walker suggested Bancroft's ex-husband "might have been responsible" for her injuries and told people he had found her already injured in the street. The prosecution also alleged Walker "staged calls" and left voice messages on Bancroft's phone to make it appear as if the couple were not together. One of two paramedics Walker called to the address said Bancroft had bruising to her face, a lump on her forehead and an injury to her lip. Her condition deteriorated and she went into cardiac arrest at about 8am and died an hour later in hospital. Walker claimed the injuries had been caused as he defended himself when Bancroft "went for him with a potato peeler".

A retrial was ordered in January after the court of appeal overturned the original conviction as unsafe. Holgate told the jury the prosecution would have to establish Walker had intended to kill Bancroft or to cause her serious injury, and that such injuries were "a substantial and operating cause of her death". "I decided that on one critical issue, namely causation, no jury could be sure that the prosecution had proved its case to the standard of proof required in a criminal trial," he said. "For that reason, the issue of causation could not, as a matter of law, be left to the jury to decide, and so Mr Walker had to be acquitted of both murder and manslaughter.

"Domestic Abuse" - An Urgent Public Concern

The rising cases of domestic abuse in the UK cannot be seen as an issue to be addressed in private, rather it is a matter of great public concern. While statutory change has cemented the common law position as well as aligning with some change in public perception, the glacial rate at which these issues are being addressed is dangerous for those subject to this abuse. The victims and vulnerable individuals involved face the possibility of ever escalating abuse during the holiday period, exacerbated by the recent 'stay at home order' and the looming prospect of another national lockdown. Covid-19 lockdowns have and will continue to force the population inside their homes, and for victims this generally means being unable to escape from their abuser. Between April 2020 and February 2021, the average number of monthly calls to the National Domestic Abuse Helpline increased by 60% from the start of 20201, illustrating the extent of the crisis and the impact of the pandemic. Not only were there more reports and referrals, but there was an increase in the severity of abuse experienced by victims with sixteen domestic abuse killings in the first three weeks of the initial lockdown – the highest for at least 11 years2. Not only was there this increased time together, but the economic and social strain of being isolated to a household added to the pressures facing families and conflict therein. Decreased interactions meant fewer opportunities to communicate about or recognise signs of abuse in others. The shift to online communications meant domestic abuse services had to quickly adapt to new channels of communication and new methods of providing support. There was consequently a sharp increase in the number of women being mistreated during the first three lockdowns, with two thirds of victims reporting that this time was used by perpetrators to further abuse3. The recent government guidance asking people to work from home and the holiday period4 combined reintroduces dangerous possibilities.

Unannounced Inspection of HMP Manchester - Prisoners Do Not Trust Prison Staff!

(Commenting on the findings of conditions, Peter Dawson, director of the Prison Reform Trust said: "With more and more people serving ever longer sentences, the government has published a white paper that promises 'time well spent' in custody. Its ambitions are good. But this important report on Manchester prison shows just how far there is to travel. Prisoners facing more years inside than ever before are not getting the opportunities they need to progress in their sentence and show they will be safe to release when the time comes. And some very basic elements of a safe, civilised prison regime are lacking, including poor oversight of use of force by staff. The chief inspector rightly highlights the need for consistent long-term leadership locally. The same is true at the centre—ministers need to deliver on the promises they have made.")

At the time of our visit it held 624 men, of whom a third were serving indeterminate sentences. The governor had taken on the challenge of transforming the culture of the prison and the mind-set of the staff to focus on the rehabilitation of long-sentenced prisoners rather than the needs of a transient local prison population, but much of this work had been delayed or derailed by the COVID-19 pandemic. Some material changes had certainly supported this process – all but a few prisoners were held in single cells, showers had been improved and new kitchens on wings would soon mean prisoners could cook their own food. With COVID-19 restrictions still in place, many prisoners were still spending too long in their cells with few jobs available, very limited offending behaviour programmes and face-to-face education practically non-existent. Staff shortages restricted the number of prisoners who could get to the library, gym or workshops.

One of the themes of this inspection was the lack of trust that prisoners had in prison staff. For example, they did not believe that complaints would be dealt with robustly, they could not get hold of their stored property, the booking line for visits rang unanswered, there was often no response to applications and the vulnerable prisoners on K wing reported high levels of victimisation from staff. The governor had taken some active steps to address this issue, moving his office and those of senior managers onto the wings to increase their visibility to prisoners and staff. He had put in a new system for managing complaints, brought in new quality assurance to respond to allegations of discrimination and he chaired the black prisoner consultation forum. He had also held a drug summit in which staff and prisoners were consulted on how to reduce the supply of drugs, from which leaders had developed a series of actions. At the last inspection we were very critical of the segregation unit and we were pleased to see improvements not only in the physical environment, but in the way men with often very complex needs were helped back into the main prison, with some impressive input from the psychology service in formulating support plans.

The governor had also prioritised improving the staff culture in the prison and the often good and caring interactions we saw with prisoners were evidence that progress was being made. Inspectors who had also been on the previous inspection noticed an improvement in the atmosphere. The prison had recently adopted a new incentive scheme that aimed to improve prisoners' behaviour, though it was too early to see the effects. Leaders had introduced targeted performance management for custodial managers to improve their confidence and competence in leading their teams; this was crucial to transforming the prison culture.

There was, however, much to be done – in some wings, inspectors were struck by the lack of engagement and poor attitudes of some officers. This along with a reluctance to turn on body-worn cameras, the unnecessary use of an aggressive, barking dog to accompany prisoners who were being relocated to the segregation unit, the unwillingness of some staff to challenge disruptive behaviour, the extraordinary strip-searching of prisoners who were being released and the often poor treatment of those at risk of suicide or self-harm, pointed to the scale of the challenge. The board in the administrative block lists the 10 governors who have led the prison since the turn of the century, a turnover rate that explains why so many deep-set problems remain. If HMP Manchester is to make the transformation from a security-focused local prison to a category B training prison that rehabilitates the often challenging and complex men in its care, the prison service will need to make sure that this strong and effective governor has the time and money to complete the job. Charlie Taylor, HMCIP

Does the Defendant in the Magistrates' Court Get a Fair Hearing?

Transform Justice: For defendants who have been remanded in custody by the police and are transported to court the next working day there will always be pressure on the defence to get enough information to advise their client. The lawyer arrives in court when the doors open and needs to track down the prosecution papers, absorb them, develop a relationship with a client they may never have met before and advise them on plea in minutes. They may be chided if they are not ready for their slot in court. But there should be no need to have the same rushed process for those who have been bailed and given a set court date. There are often weeks between arrest and charge, and at least three weeks between charge and the first court date. Plenty of time for the defence (if appointed) to contact the prosecution (the CPS), get the evidence against their client and prepare for the first magistrates' court appearance, including advising on whether to plead guilty or not guilty.

Instead, according to the review, many of these cases follow a similar pattern to police remand cases, with the defence arriving at court unprepared, through no fault of their own. The problem starts in police custody, where lawyers seek all the evidence about their client's case before interview, so they can advise them how to approach it. Without good disclosure, a defence representative may well advise their client to go "no comment". If lawyers had better pre-interview disclosure, police interview time would not be wasted and more suspects would be in line to be diverted from prosecution. The government wants defence lawyers to engage more with police after their clients have left police custody, before potential charge. They have even offered a fee for pre-charge defence engagement. Unfortunately this initiative has fallen flat on its face since defence lawyers say they can't embark on engaging with the police pre-charge without assessing whether it would be in their client's interest, and that assessment is not funded.

Defence are funded to prepare for the first appearance of their client in the magistrate's court. But they don't do this if neither side knows who to contact. "The exchange early on of simple contact details, whether by phone or email, between the parties, seems for whatever reason somewhat difficult to achieve…The Review is told that it is often difficult to have an informed discussion with a responsible person at the CPS until very late in the process, and that this is hardly ever possible before the first hearing in the Magistrates' Court". This is a crazy system, but it is also risks defendants' rights to a fair hearing.

"Whatever the root causes, however, the evidence to the Review is that at the first hearing in the Magistrates' Court, many cases are taken "on the hoof" with the defence representatives trying to absorb what may be quite complex facts and take instructions from the client, with very little time to do so, while the client, who has not previously seen the evidence either, is under pressure to decide on a plea at that first hearing in order to earn the maximum credit. Adjournments the Review understands are rarely granted. From the criminal legal aid point of view, it is an inefficient use of public funds for taxpayers' money to be spent coping with these kinds of difficulties and the defendant, guilty or innocent, is surely entitled to better treatment by the system".

Even when at court, there are disclosure problems – Lord Bellamy cites evidence from the London Criminal Solicitors' Association that lawyers are handed 50 page bundles on the day and, even then, evidence is often missing. He concludes: "Whatever the pressures, a defendant is entitled in my view to reasonable treatment by the CJS. When it comes in particular to the question of what discount a defendant is entitled to receive on sentence, and whether they could reasonably have been expected to plead, or indicate an intention to plead, guilty in the Magistrates' Court, and if so to what offence, I would respectfully hope that the often chaotic conditions described by respondents to the Review are fully taken into account by the sentencing Court. In my personal view, it would be highly regrettable if the underfunding and other difficulties of the CJS were to lead inadvertently or indirectly to a weakening of the golden thread of the common law, that it is for the prosecution to prove its case. To my mind at least a defendant is entitled to know the evidence relied on and have time to consider it before they can be reasonably expected to decide on plea".

Sir Chistopher's assessment of respect for defendants' rights is pretty bleak. But there are three issues not really dealt with in the (excellent) report which already do or could make this situation worse: 1) Unrepresented defendants. There are many not particularly well-off people who are not eligible for legal aid in the magistrates' court. Or some who are just too chaotic to access it. All that Sir Christopher says about disclosure is exponentially worse for those who don't have a lawyer. They are not allowed access to digital case files and hardly ever get papers in advance from the prosecution. They also don't have an understanding of the law to guide them how to plead. My remedy would be to make all defendants in the magistrates' court eligible for free legal advice, as in police custody. 2) Remote hearings. Sir Christopher only mentions these in relation to the efficiency of lawyer's time. Evidence from my own observations and from reading all the research on first hearings in the magistrates' court, strongly suggests that all the shortcomings mentioned in the review are exacerbated if the defendant and/or lawyer is on a video link. It is more difficult for them to communicate with their lawyer and extremely difficult to engage with disclosure material such as CCTV. 3) Online pleas. The government is legislating for defendants, unrepresented or represented, to enter guilty/not guilty pleas online. Clearly lawyers will want full disclosure before they advise a client on an online plea, but the present chaotic approach suggests that this will not happen. So pleas may be entered online without full information or, alternatively, the whole entering plea process will be beset with delays. *'Transform Justice' hope the Ministry of Justice heeds Sir Christopher's warnings both about miserly legal aid fees and the threats to defendant's rights from broader system issues.*

A Distorted Vision of Human Rights

Nicholas Reed Langen, Justice Gap: When the country thinks of who benefits from human rights, it is groups such as criminals, illegal immigrants, or benefits scroungers that seem to be foremost in the nation's collective consciousness. Rather than accept that human rights exist to protect us all, the British population has adopted a reductive understanding of human rights, something for the few, not the many. Such a flawed perception has placed human rights on unstable ground, and has made them susceptible to unscrupulous governments, like that led by the current prime minister.

This flawed perception is one of the conclusions of the Independent Human Rights Act Review (IHRAR), which is an extensive and thoughtful review of the operation of the Human Rights Act (HRA) over the twenty years it has been in force. Much like the other independent review recently commissioned by the government, that time on administrative law, the IHRAR's panel has refused to buy into the government's rhetoric on human rights. Instead of supporting the notion that there

is some crisis of human rights, with the courts interfering left, right and centre with democratic decision making, it emphasises that the most significant reform needed is in public education – ensuring the nation has a more accurate understanding of the role and operation of human rights. For a government in desperate need of some good news, and one almost as desperate for a reason to clip the judiciary's wings, this certainly not the conclusion No. 10 was hoping for. True to form, however, they have ignored the substance of the independent report, with the government's Human Rights Consultation, published last week, maintaining their distorted vision of human rights.

This consultation document is more propaganda than substance, with the government resolutely ignoring the instruction of the IHRAR, and trying to stoke a conflict over human rights that simply does not exist. The introduction offers up a hagiographic vision of the UK's human rights' past, celebrating our 'tradition of human rights and civil liberties', and observing – with little trace of irony – how the 17th century saw 'successive generations [struggle] with a central government seeking to claim increasing powers for itself'. Beyond this, the document's authors are keen to imply that while everyone may have human rights, perhaps not everyone should. It singles out human rights claims by 'people who have shown…a flagrant disregard for the rights of others', like 'foreign offenders who have committed serious crimes', for condemnation. Homegrown offenders do not escape persecution either, with the document focussing on John Hirst, the prisoner who challenged the legality of prisoners' losing their right to vote. He had been found guilty of manslaughter for killing his landlady with an axe, with the document specifically drawing attention to the nature of his crime, trying to override people's logic with their base emotions. 'Why should an axe-murderer get to vote?' it all but asks.

But rather than openly acknowledge that it simply doesn't think some people should benefit from human rights, the government generally lacks the courage of its convictions. It prefers to suggest it is the character of cases that undesirables like prisoners are bringing which is the issue, as they are 'flimsy' claims, which are clogging up the courts and costing the taxpayers' money. Curiously, little mention is made of the hopeless cases that the government insists on defending at vast expense rather than settling, like the mass of Windrush cases that are still winding their way through the courts, or the unlawful detention lawsuits brought by people like those giving evidence before the ongoing Brook House Inquiry.

The government is forced to turn to such rhetoric because it has few proposals of substance to make. One of the more significant reforms would be the introduction of a permission stage to human rights cases, requiring claimants to show 'significant disadvantage' to their rights for a claim to proceed. Such a hurdle may check some claims, but much would depend on how high judges decide to set the bar – and it also ignores the fact that cases without merit can already be struck out by the court, and that applications to do so were almost certainly made in the cases identified in the proposals, and judges decided they had enough merit to warrant being heard in full.

Other changes within the proposal are almost certain to run into trouble with the Strasbourg court. It proposes that immigrants due to be deported should be prevented from relying on certain rights, like the Article 8 right to a family and private life, in trying to overturn their deportation order, or that courts should not be able to overturn deportation orders unless they are 'obviously flawed'. While these would meaningfully change the law, they would almost certainly be found to violate the ECHR by Strasbourg, with the UK's international obligations – specifically, being a signatory to the European Convention on Human Rights – obliging it to remedy them.

Of course, as we are all too frequently reminded now, Parliament is sovereign, and if it decides not to respond to such a judgment, there is no way in domestic law that it can be

forced to. Despite this, the government still wants to make clear that Parliament 'has the last word on how to respond to adverse rulings'. It suggests a 'democratic shield', with its proposed legislative clause providing that 'judgments of the European Court of Human Rights…cannot affect the right of Parliament to legislate, or otherwise affect the constitutional principle of parliamentary sovereignty'. This is nothing but unnecessary posturing, impressing only the ignorant, who will see it is 'Parliament standing up to Europe'.

Ultimately, the government is limited in what it can do to human rights as it will not withdraw from the ECHR. This is one thing to the government's credit – of the European states, only totalitarian Belarus is outside – but rather than acknowledge the good that the ECHR does, and properly educate the public, Johnson and his Cabinet would prefer to stoke the UK population's latent Euroscepticism once more. Beyond the rhetoric, there is little tangible here, with even some of the court reforms, like the explicit recognition that the Supreme Court does not have to follow the judgments of the ECtHR, just recognising current practice, albeit with overblown language. It is the government trying to write British exceptionalism onto the statute books, nothing more. With any luck, this pointless consultation will be quickly kicked into the long grass. If it does, we should hope it stays there.

Outcry After Colorado Trucker Given 110 Years For Fatal Accident

Dani Anguiano, Guardian: The case of a young Colorado truck driver sentenced to 110 years in prison over his role in a fatal collision has prompted widespread calls for leniency and fueled criticism of the US justice system. On Tuesday 21st December 2021, the Colorado district attorney whose office prosecuted the case asked the court to reconsider the sentence of Rogel Aguilera-Mederos, 26, following the backlash over a punishment that's been called unduly harsh. Aguilera-Mederos was convicted in October of vehicular homicide and other charges related to a deadly crash in April 2019, which occurred while he was hauling lumber in the Rocky Mountain foothills. He has said he was descending a steep portion of the highway when the brakes on his semi-trailer failed, leading to a multi-vehicle pileup and four deaths. The judge in the case has said he was obligated to give Aguilera-Mederos the lengthy sentence based on minimum sentencing laws for the charges, prompting further criticism of the criminal justice system. .

More than 4.5 million people have signed a petition calling for Colorado's governor, Jared Polis, to grant clemency to Aguilera-Mederos or commute his sentence. Meanwhile, truckers and civil rights groups have expressed outrage over the sentence. "It is a stark miscarriage of justice," said Domingo Garcia, the president of the League of United Latin American Citizens (Lulac). "Here's a man with no prior criminal record who went to work to feed his family. The brakes go out on his truck. It was a terrible accident. He's given 110 years for the first crime he's ever committed, a crime that was not intentional." Lulac sent a letter to Polis on behalf of Aguilera-Mederos, a Cuban immigrant, requesting a pardon or a reduction of his sentence. Aguilera-Mederos' lawyer has filed a clemency petition to the governor.

Aguilera-Mederos's truck plowed into vehicles that had slowed because of another wreck in the Denver suburb of Lakewood, leading to a chain-reaction collision involving 28 vehicles that ruptured gas tanks and caused a fireball that consumed vehicles and melted parts of the highway. The crash killed Miguel Angel Lamas Arellano, 24, William Bailey, 67, Doyle Harrison, 61, and Stanley Politano, 69. Prosecutors argued that Aguilera-Mederos could have used a runaway ramp alongside the interstate, which is designed to safely stop vehicles that have lost the function of their brakes. But, Aguilera-Mederos testified that he was struggling to avoid traffic and

to shift his truck into lower gear to slow it down. Alexis King, the district attorney whose office prosecuted the case, told the Denver Post that Aguilera-Mederos didn't accept efforts to negotiate a plea deal, and that the convictions recognized the harm caused to victims of the crash. Under the reconsideration motion filed by the district attorney, the court can modify the sentence and go below the mandatory minimum, said Ann England, who teaches in the criminal defense clinic at the University of Colorado law school.

The judge in the case, Bruce Jones, had said the sentence was the mandatory minimum term required under state law, but that a lesser punishment would be appropriate. Mandatory minimum sentencing laws required that sentences on 27 counts of vehicular assault, assault, reckless driving and other charges run consecutively. "I will state that if I had the discretion, it would not be my sentence," he said. Mandatory minimum sentences have helped to drive mass incarceration and over-incarceration in Colorado and the US, England said. "I think people should be asking why we have these mandatory minimum prison sentences," England said. Mandatory minimum sentencing takes the discretion out of the courts, and moves the balance of power from the court to the prosecutor, she said. This case, England added, is "a condemnation of the way the system works and the way the mandatory sentencing works". The ACLU of Colorado has condemned the sentence and supports efforts to get the governor to take up the case, said Mark Silverstein, the legal director of the ACLU of Colorado. "The sentence is extraordinary especially in light of facts of this particular case," Silverstein said. "It underscores the problems with the criminal justice system."

At Aguilera-Mederos' sentencing, relatives of those killed in the collision said he should serve time for the crimes. Duane Bailey, the brother of William Bailey, asked the judge to sentence Aguilera-Mederos to at least 20 years, the Post reported. "He made a deliberate and intentional decision that his life was more important than everyone else on the road that day," he said. Aguilera-Mederos wept as he apologized to the victims' families at his sentencing. He asked for their forgiveness. "I am not a murderer. I am not a killer. When I look at my charges, we are talking about a murderer, which is not me," he said. "I have never thought about hurting anybody in my entire life."

Boris Johnson's Plans for the UK 2022 to Enshrine His Assault on Democracy

Everyone knows Boris Johnson is an amoral liar with no respect for standards. But if we don't act now, his power grabs will be fixed in law. There are two ways you go bankrupt, Ernest Hemingway once wrote. "Gradually, then suddenly." It's the same with how our democratic rights are taken from us. As prime minister, Boris Johnson has gradually chipped away at norms and standards. Parliament has been prorogued. Electoral laws broken. Rules trampled on. Now his government is set on a sudden assault on our democracy. Forget the pantomime in Downing Street. Let's look instead at the ghost of Christmas future made flesh through some of the egregious pieces of legislation that will be winding their way through the Houses of Parliament in the coming months.

There's the Policing Bill that criminalises protest, and could lead to protesters being sentenced to 51 weeks in prison. An Elections Bill that will give the prime minister control over the elections regulator and force voters to carry ID to exercise their franchise. A Nationality and Borders Bill that could strip British citizenship from people at the flick of a pen. An extension of the Official Secrets Act will place legal constraints on journalism and whistleblowing. The Human Rights Act is to be ripped up. Ministers will be given the right to throw out judgements made under judicial review.

Corrupting Democracy: As with anything that happens gradually, then suddenly, it is easy to become inured to just how broken Britain's democracy has become. This is a government that ripped up parliamentary standards in a doomed attempt to save the disgraced MP, Owen

Paterson, who had lobbied for companies that paid him hundreds of thousands of pounds. The Downing Street parties – and their cack-handed cover up – are more a symptom than a cause of the rot, but they are indicative of a morally bankrupt elite. While many in the media talk of 'sleaze', the reality is that Johnson has presided over a culture of corruption and clientelism. What other words are there to describe a politics in which political donors are given privileged access to a VIP lane for lucrative COVID contracts? openDemocracy first started reporting on irregularities in COVID contracting in April 2020. When we revealed that a PR firm close to Dominic Cummings and Michael Gove had been given a bumper contract without any tender, the Cabinet Office dismissed our questions. Earlier this year, a court found that Gove broke the law in awarding Public First a public contract.

There are so many examples that it's hard to keep track. Take David Frost. He has flounced off as Brexit minister, but the good lord will remain a peer for life. Evidently, the animus of right-wing Tory MPs towards "unelected" health experts does not extend to former Scotch salesmen now selling Singapore-on-Thames. Of course, Frost will have plenty of like-minded company among the ermine. As openDemocracy revealed recently, £3m is the going rate for Tory donors who want a seat in the House of Lords. The Met Police declined to investigate "peers for sale". Plus ca change.

State Capture: The fish rots from the head. Johnson has presided over a regime made in his own image: venal, vacuous and in contempt of checks and balances. This is a prime minister who ignored his independent adviser on ministerial interests when it was found that the home secretary Priti Patel had breached the ministerial code, and who elevated the Tory donor Peter Cruddas to the House of Lords in defiance of advice from the House of Lords Appointments Commission. There is a phrase to describe all of this: 'state capture'. As Liz David Barrett explained in openDemocracy in November, state capture is "a type of systematic corruption where narrow interest groups take control of the institutions and processes that make public policy, buying influence not just to disregard the rules but also to rewrite the rules". Just like Viktor Orbán in Hungary and Jair Bolsonaro in Brazil, Johnson has launched attacks on the judiciary and tried to silence the media. Right now, he is changing the rules for our elections, in his favour.

Whatever other reservations Johnson's troops may have, they are right behind him on this. While over 100 Tory MPs rebelled against COVID restrictions recently, few on the government benches have opposed legislation that will make voter ID mandatory – even though at the 2019 general election, there were just 33 allegations of impersonation out of 58 million votes cast. Whose votes will be lost as a result? Inevitably, those who are already excluded from full participation in society: ethnic minorities and immigrants, the poor, not to mention all those inconveniently progressive students.

The Elections Bill also gives the government the power to set the "strategy and policy" of the Electoral Commission. That's the same Electoral Commission that senior Conservatives have called to be abolished. Under Johnson, the British government's woeful transparency record has gotten even worse. When openDemocracy revealed the existence of a secretive Freedom of Information Clearing House in the heart of government, Whitehall responded by calling our journalism "tendentious". That was nonsense – a parliamentary inquiry has since been launched into the Clearing House – but the problems remain. Any administration in which special advisors can control what information is released is deeply compromised.

Fightback: It's easy to be gloomy right now. The backlash against democracy is global and organised. The anti-abortion activists peddling LGBTQI 'conversion therapy' in the United States and around the world are part of the same anti-democratic nexus that suppresses and disenfranchises minority voters. The same dark money playbook of anonymously-funded think tanks

and client media that openDemocracy has done so much to uncover is now being used by vested interests to fight everything from climate change action to mask mandates. Now we face the gravest of challenges: the fight to protect the fabric of our democracy.

OpenDemocracy is fundamentally a response to the crisis of democracy, in the UK and internationally. With a dedicated team of independent journalists and a worldwide network, we have a track record of uncovering the scandals that really matter. Knowledge and action are the key tools in our arsenal. Uncovering what's really going on is vital. People need to know that their rights are being eroded and how the rules that govern their democracy are being broken. Information alone isn't enough. We need action. There are steps we can take. Last month, more than 4,000 openDemocracy readers wrote to their MPs calling for parliamentary standards to be strengthened. That's a start, but there is so much more to do. You, our readers, have a vital role to play. It is only by working together, as citizens, that we can turn back the anti-democratic tide. Hemingway's law of bankruptcy holds for democracy too. Now the time for gradual action has passed. We need to act suddenly, and collectively, to protect our rights. Before it's too late.

Dalian Atkinson: Police Apologise for Killing Black Ex-Footballer

Joseph Lee, BBC News:Police have sent a written apology to the family of ex-footballer Dalian Atkinson, six months after an officer who Tasered him and kicked him in the head was jailed for manslaughter. West Mercia's Chief Constable Pippa Mills said she was "deeply sorry". "A police uniform does not grant officers immunity to behave unlawfully or to abuse their powers," she wrote. The family of Mr Atkinson, a former Premier League star with Aston Villa, had said the case showed the need for change in the way black people were treated by police and the criminal justice system, in the wake of the Black Lives Matter movement.

Ms Mills only took over as chief constable of West Mercia Police in September, three months after the legal proceedings ended. In her letter to the family, she said that due to the European Convention on Human Rights, there was an "obligation" for her to "acknowledge and accept" on behalf of the force that Mr Atkinson's human rights were breached. "Ben Monk's conduct was in direct contradiction to the standards and behaviour of the policing service, and understandably undermined public confidence," she said.

The chief constable added: "I am deeply sorry for the devastating impact the actions of a West Mercia officer has caused you and I extend my deepest condolences to you all, and Dalian's wider family and friends." Ms Mills said she recognised the incident was "devastating" for the family, adding: "I cannot imagine the immense pain you have felt and how the significant delays with the trial have also added to your burden of grief. "You have demonstrated great strength and dignity throughout the past five years." Mr Atkinson, who was suffering from a serious illness which had affected his physical and mental health, died in hospital in 2016 after he was arrested outside his father's home in Telford, Shropshire. Monk used his taser on the 48-year-old for 33 seconds and kicked him as he lay in the street, hard enough to leave bootlace prints on Mr Atkinson's forehead. The judge at Monk's trial described his actions as an "obvious" use of excessive force. After Monk was jailed in June for eight years, the police watchdog said it was the first time in three decades a British officer had been convicted of manslaughter for their actions in the course of their duties Since 1990, 10 officers had faced murder or manslaughter charges but were acquitted or the cases against them collapsed.

Asylum Seekers Subjected to 'Dangerous' Use Of Force

Suicidal asylum seekers were subject to force by guards who the Home Office allowed to remain on duty despite being "effectively uncertified" in the safe use of restraint techniques, according to internal documents charting conditions inside one of the UK's most controversial immigration centres. Experts say the department endangered lives last year by deploying custody staff whose training in the safe use of force had expired, as it detained hundreds of people who had crossed the Channel in a fast-track scheme to remove them.

The cache of 180 documents, obtained through freedom of information laws by the Observer and Liberty Investigates, reveal the desperation of those held at Brook House as the Home Office mounted an intensive programme of flights removing people who had arrived in small boats to mainland Europe. They show that the proportion of detainees subjected to force inside the removal centre near Gatwick airport more than doubled last year. The documents – which include officers' written accounts, minutes taken during oversight meetings and complaints filed by detainees and staff – also offer a rare insight into allegations of excessive force by staff.

Serco, the contractor that took over Brook House in May 2020, said it "completely refutes" the allegations, although it did not specify which claims. The disclosures reveal that after the first lockdown in March 2020, custody officers, who Home Office guidance states should take at least eight hours of training in the safe use of control and restraint techniques every year, were given a "dispensation" allowing them to keep working. "The danger created by staff being overdue for refreshers is the increased risk of death in custody due to staff loss of knowledge and skill," said Joanne Caffrey, a former police officer of 24 years and an expert witness in the use of force. In normal circumstances more than one person out of date would represent a "significant institutional failure", she added.

Between July and December last year, Brook House was the government's base for Operation Esparto – a schedule of 22 removal flights under a deportation option that allowed the UK to send people to the first EU country they had entered. The process finished on 31 December with the end of the Brexit transition period. Many detainees are believed to have been survivors of torture and trafficking. Officers used force, including techniques that deliberately cause suffering to gain compliance – called pain-inducing restraint – to prevent self-harm on 62 occasions from July to December. Self-harm attempts clustered around the flights themselves. The day before a charter to France and Germany on 25 August, officers intervened four times, including one in which a man was taken to hospital after being found in a pool of blood with slash wounds to his arms, head and chest. Between August and December, there were 14 attempts by detainees to end their lives using improvised ligatures. Two tried to suffocate themselves using plastic bags. On 21 September, the day before a flight, a man jumped from an upper floor but was caught in safety netting before trying "to push himself through the edge of the netting so he could fall head first to the ground", officers wrote. One claimed torture survivor who attempted suicide in detention described Brook House as his "worst nightmare". He said: "I thought at least if I kill myself, they'll be able to learn a lesson – they'll listen, and they wouldn't treat other people the way they treated us."

Serco warned the Home Office during monthly updates that incidents of self-harm linked to the Esparto programme were driving up rates of force. In fact, the proportion of detainees subjected to force by officers rose from between 7% and 8% in 2018 and 2019 to 17% in 2020, according to monitors. Yet the Home Office didn't release any detainees through the legal mechanism to identify those at risk of suicide despite guidance permitting this. Instead, when training shortages emerged because of Covid-19, it relied on a loophole quietly introduced to keep officers on duty across the immigration estate after their safe use-of-force training had expired.

Home Office guidance usually requires custody officers to take at least eight hours of refresher training every year in the safe use of control and restraint techniques – some of which can kill if performed incorrectly. Expired staff "must not work as a [custody officer]" and their certificate is marked "invalid" on a central database, guidance states. In March 2020, the Home Office created a "dispensation," allowing out-of-date officers to remain operational until the end of September, taking part in any use-of-force incident unless it was "planned".

Documents reveal that officers used force on detainees at Brook House during Operation Esparto while "out of ticket" on at least six occasions. On three of these, the officers were on constant watch duties – a shift during which they monitor a detainee at risk of self-harm or suicide. For example, just after 9pm on 3 August 2020, an asylum seeker – on constant watch after saying he'd rather die than return to France – began head-butting a cell window. The officer monitoring him – who ticked a box in his form stating he had not received refresher training – stepped in to pull the man back. The detainee then picked up a kettle and hit himself on the head with it "multiple times", internal reports state. The kettle was taken from the man's grip but he wrapped the power cable around his neck to strangle himself. A second officer grabbed the man's hand. She then used a technique known as the back hammer, which risks dislocation if used incorrectly. She also ticked a box on her use-of-force report stating she had not received refresher training.

Serco said the issue occurred in the aftermath of its takeover of Brook House and has since been corrected. A spokesperson for the Home Office said: "We have a range of safeguards in place to protect the vulnerable, including round-the-clock access to healthcare professionals, and contractors are also duty-bound to maintain our safety standards." But in internal email exchanges, officials appeared to acknowledge that some of the material was controversial. A reporter's request to see officers' use-of-force accounts was sent for ministerial clearance, during which one official wrote to another: "I don't need to see all the forms but pls do send me any that are likely to be contentious." The reply came: "There are a lot of them that are."

Although not addressing specific allegations in a statement, Sarah Burnett, Serco's operations director of immigration, said: "We have provided comprehensive evidence to demonstrate the accusations are untrue and there is no evidence to support them, only supposition and incorrect third-party commentary." Burnett said that since taking over Brook House, Serco had recruited 170 extra staff and established an "open, inclusive culture" where "officers behave professionally and are properly trained and certified notwithstanding the challenges faced during the Covid pandemic". She added: "Our officers have a duty of care to the people in the centre, and only use appropriate and proportionate force as a last resort.

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