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Bumbling Along - The 'Law is an Ass and Idiotic With it!

Raymond Smith, Inside Time: Dickens gave us some memorable characters, one of whom was Mr Bumble the Beadle in Oliver Twist. His role in life was as the senior official at Oliver's orphanage where his days were spent in flaunting his self importance whilst seeking to fiddle some financial advantages for himself. But on one occasion he spoke some truths. "The law" he pronounced "Is a ass. The law is a idiot." (sic). He was so right. The Law can be an ass, and a spiteful harmful ass at that. The Law can also be an idiot, because when it fouls up and damages lives it fails to correct the error and instead carries on damaging without remorse or care. Three examples of this are in front of us today.

New Horizons: The first is the scandal of the convicted Sub Postmasters, currently subject to a Public Inquiry. Their plight began twenty-two years ago, when the Post Office introduced a new computer system named Horizon, developed by Fujitsu. Anyone who has worked anywhere knows that the phrase "our new computer system starts tomorrow" is a harbinger of doom. Files vanish, basic tasks go wrong, innumerable Consultants have to be brought in to benefit from hours of highly paid work to put it right. Anyway, in came this system and then it all went whatsits up. First of all, those working in the post offices found that there were money shortages on a regular basis, which they assumed were minor cash handling errors and so put money back from their own pockets to balance the books, but the discrepancies grew.

Within a short time 736 sub postmasters and mistresses, those people who take the time and trouble to provide a public service in their small paper-shops or grocery stores, paying pensions or benefits, and selling stamps, suddenly found themselves accused of embezzlement. In some cases, they were accused of stealing sums far larger than the total turnover of the shop they were actually running. Not one person seems to have stepped back and thought it strange that these highly respected and dedicated people, loved in their own communities, had all of a sudden turned to crime. Nobody, and I find this impossible to understand, found it peculiar that the tens of thousands of pounds some of them were accused of taking, had completely vanished and could not be traced in their personal bank accounts or lives. Above all no-one took a look and wondered if perhaps it was not a coincidence it happened at the same time the Horizon programme began, and may have been linked. Worst of all nobody told any of them that others were facing the same accusations, so each one was left thinking they alone faced this problem and might have in some way caused it in the first place.

They were made to pay back money they had never taken. Some went to prison. Marriages broke up under the strain. There have been four suicides that may be linked to this and thirteen who were punished despite having done nothing wrong have already died without knowing they were fully vindicated. In 2019, once the shocking system had been exposed, a High Court Judge described the Post Office investigation, which refused to even consider their computer system was faulty, as being like "holding to a belief that the earth is flat." Completely innocent people were punished, fined, imprisoned, and found themselves scorned by neighbours who felt they had been fleeced by those they had trusted as friends. Eventually financial compensation was agreed, though by no means all have received it yet but amazingly the Head of the Post Office responsible for the Flat Earth approach condemned by the Judge was actually given a CBE and a highly prestigious role in a Health Service Trust even after that strong criticism. This case proved Bumble completely right. Each of those investigating acted like an ass. As did the entire system. Yet none of those whose system caused the problem or those whose hapless investigation damaged 700 plus innocents suffered in any way.

Nothing Changes: The second scandalous miscarriage of justice is Joint Enterprise. Often featured within Inside Time, this is the long-standing principal that all those participating in a crime are collectively responsible. However, in 2016 the Supreme Court ruled that since 1984 the interpretation of this principal has been misused and the definition widened to make people responsible under Joint Enterprise when they never should have been as they not only had no active part in the criminal act concerned but had no foreknowledge of it and no possible means of preventing it. This wrongful change of definition carried on for over 30 years. It was a very important decision, but since that day nothing has happened. The 2016 verdict was proclaimed a landmark judgement and expected to result in Appeals being granted for all those convicted by what the Court itself ruled was a fundamental error in law. It has not happened. People are still in prison and refused the right to have their case heard. Extreme weather forced Anti Joint Enterprise Campaign group JENGbA to postpone a demonstration outside the Supreme Court to mark the 6th anniversary of the verdict but will mark the occasion when weather allows and continue to fight until this wrong is put right.

They Certainly Know Now: The third, and continuing, stigma on our society is Imprisonment for Public Protection. This was a punishment introduced in 2005 aimed at preventing serious violent or sex offenders from being released until a Parole Board had been satisfied they were no longer a danger to the public, but was added by Judges to short sentences for which it was not intended. IPP was abolished for new sentences in 2012 but the abolition was not retrospective. There are people who were given tariffs of 4 years or even less over 15 years ago who are still in prison. Senior judges have called it the worst example of injustice ever seen in their lifetimes, the man who introduced it, Lord Blunkett, describes it as his greatest mistake because it was misused.

When you are in prison, knowing your leaving date is very important. You measure your days against it, no matter how long or short the length of time may be, but for those on IPP that certainty does not exist. Parole Board hearings have come and gone and no progress has been made. Prison is stressful for everyone, but for those on IPP the stress is unbearable and there is considerable mental anguish causing psychological damage. A lot has happened over IPP in 2021, indeed since Inside Time published an IPP Special last February, the main one being the Commons Justice Committee Inquiry into the matter.

At one of those hearings Prisons Minister Kit Malthouse claimed one of the concerns about releasing those on IPP is their mental health as they may be "dangerous", but admitted it is the sentence itself that is causing the damage. He said the priority is protecting the public, even though he is actually protecting the public from the result of the system he oversees. The Committee Chair scornfully described it as "rough justice". Rough justice is no justice. Whilst people are being released on Licence, just as many are being recalled to prison each year as are let out.

The recently formed IPP In Action Group will stage a march from Downing Street to Parliament on April 27thwhere there will be a mass Lobby of MPs. TV, radio, and the press are now widely discussing the topic. The Justice Committee Report will be out this Spring and given the superb response from those inside prison on the sentence I am confident it will be strong and give practical steps for stopping this heinous crime perpetrated by the British State. 500 letters from those suffering, inspired by UNGRIPP, were submitted in evidence to guide them. Politicians can no longer claim to be uninformed and must act.

The Fight Will Continue: Perhaps the thinking behind the reluctance to put right matters which are clearly wrong was best, or worst, expressed by the present Home Secretary Priti Patel MP back in 2011 before she was a Minister. Appearing on "Have I Got News For You" she was grilled by Ian Hislop, Editor of Private Eye, on Capital Punishment which she strongly supported. He highlighted the Birmingham Six and Guildford Four would have been executed under her system even though they were subsequently proven innocent. Ms Patel said that would be acceptable because they had been through "due process" and it would be a "deterrent". Mr Hislop mused it is not a deterrent if you punish completely the wrong people. But it sums up for me the approach saying injustice and wrongful imprisonment are a "price worth paying" to be tough on crime. That is fine if it is not you paying the price. To be tough on crime you have to properly identify the criminals. Not punish the innocent. Ministers should consider that those in prison spend time considering the crime they have committed and errors they have made. If their punishment is unjust as they have spent far too long in prison for anything they did, they instead feel resentful and angry which is not a positive frame of mind. Injustice will always cause such negativity. It would in anyone.

The strain on those campaigning against these and other scandals is heavy. They do not do this because they are paid but because they believe in their cause. They get frustrated when they do not see results and families of those suffering can look to blame them for not solving everything, even though it is beyond their control. But in the end they will win. The Post Office victims are now seeing their case properly examined. The wrongful use of Joint Enterprise and IPP will end. Those fighting for true justice have far more strength than that possessed by publicity seeking populist politicians who will eventually shrivel up and vanish. There will always be times when the Law is an ass, an idiot, as Mr Bumble identified. But decent people will challenge each ludicrous and foul manifestation as it arises. And in the end, will win.

Inmate Died in Ambulance After Prison Gate Wouldn't Open

Healthcare staff called the ambulance for Guy Paget, 73, at 1.23pm on 16 March last year because he needed urgent hospital treatment. Initially there were no ambulances available, leading to a half-hour delay. Paramedics arrived at around 2pm, and at 2.35pm the vehicle left the prison's healthcare unit with the patient aboard. However, the prison's main gate failed to open, preventing the ambulance from leaving. Then, according to escorting officers, a second problem arose when an operational support grade member of staff tried to prevent the vehicle from leaving because paperwork had not been completed. He died in the ambulance at 3.06pm while it was parked in prison grounds.

A report on Paget's death by the Prisons and Probation Ombudsman, Sue McAllister, concluded: "There was confusion about whether a gate pass was needed for the ambulance to leave the prison. The main prison gate malfunctioned when the ambulance attempted to leave the prison grounds to take Mr Paget to hospital. These issues caused a delay in the ambulance leaving the prison." She said that although the delay did not appear to have affected the outcome in this case, it could make a critical difference in other medical emergencies. She made two recommendations to the prison's governor – that "the prison gate is in working order" and that "all staff who are involved in emergency escorts are aware of what paperwork is required for an ambulance to leave the prison, including whether a gate pass is required". Paget, who was serving 14 years for drugs offences, had been suffering from terminal cancer of the throat – which was recorded as the cause of death – and urinary sepsis.

Four Officers Dismissed Over Prisoner's Death

Darren Horner, 44, died in 2018 of methadone toxicity and inhaling vomit. He was last seen alive when locked up for the night at around 5pm. Two roll checks were not completed correctly, and the officer who unlocked his cell in the morning did not check on him. He was found dead by another prisoner at around 10am. An internal investigation by the prison found that officers responsible for roll calls and welfare checks did not carry out their duties as they should have done.

Sue McAllister, the Prisons and Probation Ombudsman, said in a report on Horner's death published last week: "These failures resulted in disciplinary action and the subsequent dismissal of four prison officers. I am satisfied that the prison has introduced training to ensure prison staff are aware of the vital importance of completing unlock and welfare checks. We cannot say whether the outcome would have been any different for Mr Horner if the checks had taken place."

Horner, an intravenous heroin user who also suffered from anxiety and sciatica, was serving a 10-week sentence for failing to surrender at court. The Ombudsman's investigation concluded that he had a long history of substance misuse, while a clinical review found that he received a good standard of clinical and substance misuse care at the prison, equivalent to that which he could have expected to receive in the community. The Ombudsman also noted that after the prisoner was found unresponsive, the emergency response was delayed because some prison staff were not carrying radios. The prison has said that it now ensures all staff in prisoner-facing roles carry radios.

January Record Month for Prison Covid Cases

Eight more prisoners died with Covid in January while the number of new infections was the highest in any month since the pandemic began. Monthly figures from English and Welsh prisons, issued by HM Prison and Probation Service, showed that number of prisoners to have died with Covid since the start of the pandemic has now reached 185, with the January deaths coming on top of eight in December and 10 in November. There were 6,884 new confirmed cases among prisoners in January, up from 3,638 in December. The figures do not record which strain of the virus was contracted, but during December the milder but more infectious Omicron variant replaced the Delta variant as the dominant strain in the UK. Since the pandemic began in March 2020, there have been 32,823 positive tests recorded by prisoners – but the true number of infections will be higher, as prisoners are not universally tested. The figures also show that 121 prisons had one or more residents test positive during January – the highest total yet, and meaning that almost every establishment had at least one case.

Justice Secretary Dominic Raab has Final Say on Moves to Open Prison

Raab now intervenes personally each time the Parole Board recommends that a high-risk prisoner moves to open conditions, to decide whether the transfer should go ahead. According to the Ministry of Justice, he began the practice last year after he was appointed to the role in September. The law gives the Justice Secretary the power to block transfers to open prisons – but according to the MoJ, previous holders of the office including Raab's predecessor Robert Buckland QC used to delegate the decisions to officials rather than getting involved themselves, and the power of veto is rarely used. The change in procedure was announced last week amid a political row over a life-sentenced prisoner, described by police as "extremely dangerous", who absconded three weeks after arriving at North Sea Camp open prison. The Ministry of Justice said that although the prisoner had only just been transferred, the decision to move him to open conditions was taken by the Parole Board in February of last year and

confirmed in June when Buckland was still in post. A spokesperson for the MoJ, referring to Raab by his alternative title of Deputy Prime Minister, said: “Following a decision by the Deputy Prime Minister last year, there will now be greater scrutiny of Parole Board recommendations on open prison moves. The Deputy Prime Minister will oversee the decisions in the most high-risk cases personally.” The Government is already drawing up plans for wider reforms of the parole system, in a review which began under Buckland and is continuing under Raab. Options are reported to include giving the Justice Secretary a veto over Parole Board decisions to release high-risk prisoners in the same way that he or she can already veto decisions to move them to open conditions.

The 56-year-old prisoner who walked out of North Sea Camp on February 13 had been given two life sentences in 2000 for breaking into a woman’s house through a cat flap, tying her up and sexually assaulting her while holding a knife to her throat. A manhunt was launched after he absconded, and police warned the public not to approach him. Labour’s shadow justice secretary Steve Reed said: “Dominic Raab has serious questions to answer about why such a dangerous criminal was deemed fit to be in an open prison where he could abscond.” Although open prisons are seen by the public as a place to hold low-risk prisoners who are nearing the end of their sentences, because they lack a perimeter wall, in practice they are widely used for higher-risk prisoners. The Security Categorisation Policy Framework governing their use says a male prisoner may be considered for open conditions if he is identified as “low risk of harm to the public or has a suitable plan in place to manage identified risk” – leaving the door open for high-risk individuals. Figures released by the Ministry of Justice in 2020 under the Freedom of Information Act showed that three open prisons in England held almost 500 men convicted of sexual offences and assessed as posing a high risk of harm – 230 at Leyhill, 203 at North Sea Camp and 156 at Haverigg. The highest proportion was at North Sea Camp, where more than half the residents were men convicted of sexual offences and assessed as high-risk.

Brook House IRC Inquiry: Staff Accused of Selling Drugs to Detainees

Samantha Dulieu, Justice Gap: The public inquiry into treatment and conditions at Brook House Immigration Removal Centre has heard evidence that staff smuggled in drugs for detainees to sell. The inquiry into Brook House was triggered by a series of investigations by BBC Panorama in 2017, which uncovered mistreatment of detainees, widespread drug use and high levels of self-harm. Speaking to the inquiry this week, one detainee has said custody officers prepared packages of contraband in the carpark, including drugs and weapons, and sold them to detainees inside. Those being held transferred money to staff for the parcels, then sold their contents to their cellmates. The witness statement revealed use of cannabis and spice was widespread, with catastrophic effects on the levels of violence and poor mental health in the centre. The witness, codenamed D687, said using the drugs made his mental health worse, and in 2017 he tried to hang himself. He said: ‘I was treated like an animal, something less than human. It has left an impact on me and my mental health which I don’t think I’ll ever get over. When I entered Brook House I felt relatively normal. When I left I felt broken, hopeless and mad.’

The Inquiry was set up in November 2019 following the successful judicial review challenge brought by two former detainees and is the first of its kind into immigration detention in the UK. In that judicial review the judge, May J stated: ‘Immigration detainees are a uniquely vulnerable group of people. They are not convicted persons serving a sentence, they are not being detained as punishment. Unlike most prisoners, they do not know for how long they are going to be confined. ‘Detention under these conditions is diminishing and depersonalising enough, but it is unacceptably degrading and dehumanising where there is repeated and apparently casual abuse on the part of staff employed by the state to supervise and look after such detainees.’ More former detainees are expected to provide witness statements about their mistreatment at Brook House this week as part of the second phase of hearings, which is due to last six weeks.

Ahmed Mohammed Convictions Quashed After CCR Referal

Ahmed Mohammed (37) has had his 2004 convictions for two indecent assaults quashed by the Court of Appeal. Ahmed had arrived in Britain on 2nd July 2001, and his father had given evidence that he had not gone out of the house until 9th July. Ahmed, a Somalian, spoke no languages other than Somali and some Arabic. The first assault occurred on 5th July 2001. The second assault occurred on the night of 8th August 2001. Ahmed's father had given evidence that there had been a family get-together that ran from 6 pm on 8th August to 6 am on 9th August, and that Ahmed had been there the entire time. The jury at a finding-of-fact hearing in 2002 were read two statements giving evidence of, amongst other things, Ahmed's lack of English and inability to communicate. Ahmed was ruled unfit for trial due to his mental illness. Despite the alibi evidence and clear evidence that Ahmed did not closely resemble the victims' initial descriptions, the jury at the finding-of-fact found Ahmed guilty.

Sadly, it is often human nature for people to dismiss alibi evidence given by family members, using the internal justification of "Well, they would say that, wouldn't they?" It slips people's minds that if the alibi evidence were true, they would also say that. Ahmed was sentenced to a Hospital Order with Restrictions under section 41 of the Mental Health Act 1983. In 2004, when Ahmed's mental health allowed, this was followed by a full criminal trial at which he was also found guilty. The two victims of the indecent assaults, together with some others who had been victims of similar assaults, had all described their attacker as being in his twenties, oliveskinned, and speaking English with a foreign accent. Ahmed was only nearly 18, blackskinned, and spoke no English at all. The convictions were based solely upon identification evidence; that is, the appellant was picked out by two complainants on an identification parade held on 31st October 2001, even though he did not fit the descriptions that both had given shortly after the assaults.

Convicting the innocent does nothing either to reduce crime or to protect victims. It simply creates more victims. This identification parade took place many weeks after the offences, and the two victims may well not have retained a clear memory by then of what their attacker had looked like. Both incidents occurred at night. Of the other complainants, the three who attended the identification parade made no positive identifications, and Ahmed was therefore not prosecuted in respect of their allegations. SAFARI is of the view that, when faced with an identification parade, many people will assume that the offender is in the line-up (no matter what instructions are given to them about this), and if they cannot immediately identify someone in the line-up may just opt for the "closest match" to their attacker. We do not know the ethnicity of the rest of the line-up. All the victims had said that their attacker approached them on a bicycle. Ahmed and his father both confirmed that Ahmed didn't own a bicycle, and Police found no bicycle at his address. After the attack on 5th July, the victim's brother noticed a mobile phone in the bushes where the attack happened, and pointed it out to the

Police, who took it. Police discovered that the mobile phone was both fully-functioning and fully-charged, (and therefore clearly not deliberately thrown away) and that the language on the phone was Turkish. At the time of the investigation, testing confirmed that DNA on the phone did not match Ahmed's; Ahmed and his father confirmed that Ahmed did not own a mobile phone. The victim gave evidence that her attacker had a mobile phone and that something "hard and flat" had been held against her throat during the assault, and although she could not absolutely confirm that this was the mobile phone found there, she considered that it was possible. The only evidence that could be given about the mobile phone, either at the finding-of-fact or the criminal trial, was that it did not belong to Ahmed. Therefore, it was considered insignificant.

Ahmed first came to the attention of Police in the early hours of 24th August 2001, when his family reported him missing from home. On 5th September 2001, he was arrested for an indecent assault on another woman, who had been attacked shortly before midnight on 23rd August 2001. Ahmed was only suspected of being responsible for that assault because Police thought that his appearance was "similar" to the description that the victim had given, although details of her description are not now available, and he was out by himself that night. So would a large number of other people of similar descriptions; in Tooting, where the assaults took place, less than half the population is white. SAFARI cannot understand why the Police picked out this one man to target. On 12th September 2001, Ahmed was arrested for five further indecent assaults committed in similar circumstances and within a similar location and at similar times of night between 5th July 2001 and 30th August 2001. As the offences were all so similar, the Police's view was that they were all committed by the same man. The problem in this case was that they had got the wrong man. The defence position all the way through was that this was a case of mistaken identity.

CCRC obtained the file on the 5th July assault and a sample swabbed from the mobile phone. They arranged for further DNA testing of the sample. A profile was obtained using a more discriminating system. The reporting scientist said this sample "appeared to be a good match" for the partial profile obtained earlier, and also related to another man "S", whose DNA was obtained in 2003 when he was cautioned for an offence relating to committing an indecent (but consensual) act in a public place. Police records show that S had a mountain bike with him at the time of his arrest. There was also information that showed he had come to the attention of the Police in respect of other matters, although he was never questioned regarding the two offences that Ahmed was convicted of, or regarding the other indecent assaults. S was Turkish. A verbal description and a photograph taken not long after the 2001 assaults, showed S to be of white southern European "ethnic appearance"; he was two or three years older than Ahmed, matching the age estimates given by victims; the same height, same colour eyes and same colour hair, with an "other foreign" accent. By comparison, a photograph of Ahmed shows clearly that he is not of "white southern European ethnic appearance", but black.

The Appeal judges said: "We do not consider that he could reasonably be described as having either 'dark olive skin' or a 'Mediterranean appearance' or as being 'Spanish/Italian/olive skinned' or 'olive skinned'. "It would have been impossible to match the DNA taken from the mobile phone to S in 2001, as S's DNA was not added to the database until 2003. The grounds for appeal were that the 'fresh' evidence relating to DNA comparisons and the

background detail of the 'good match', S, had transformed the landscape. S's ethnic origin matches the language used on the mobile telephone and corroborates the DNA match. His physical characteristics match the initial descriptions given by all five of the complainants far better than do those of Ahmed. He is known to have had use of a mountain bike at the time of the incident on Tooting Common that led to his police caution in 2003. His use of English, albeit with a 'foreign' accent, was likely to be better than that of Ahmed. The Appeal judges said: "In 2002/2004 it is understandable why the jury could dismiss the presence and potential import of the mobile phone that had been found; the gender, age and ethnic origin of its owner were unknown. However, the DNA evidence matching it to S now provides that information and makes it a crucial part of the identification process. If the present information had been accessed by the Police in 2003, at a time when S's profile became available for comparison, we would be astonished if he had not been interviewed and relevant further inquiries made." They also said: "we have come to the certain conclusion that the details of the police caution which S received in 2003 would be admissible. [...] This evidence goes [...] to rebuttal of a coincidence. That is, the coincidence that another man matching the description of the assailant, who in 2003 was known to have ridden a bicycle late at night in the same area of the 2001 assaults and engaged in unlawful (in that it had the tendency to offend public morality), albeit consensual, sexual activity out of doors, just happened to drop his mobile phone, at the scene of, and proximate to the time of, the assault upon KF, who accepted that the mobile phone might have been used in the assault." R v Ahmed Mohammed (Neutral Citation Number: [2021] EWCA Crim 201, Case No: 2020/02425/B4].

Parliament Review: Imprisonment for Public Protection Sentences.

The Government keeps the operation of sentences of imprisonment for public protection (IPP) under constant review. This includes continuing to ensure that IPP prisoners, as well as all prisoners serving indeterminate sentences, have every opportunity to progress towards safe release. This approach is working, with high numbers of unreleased IPP prisoners achieving a release decision each year. The number of IPP prisoners who have never been released stood at 1,602 on 31 December 2021, down from over 6,000 at its peak.

This Government has brought forward an amendment relating to IPP licence terminations as part of the Police, Crime, Sentencing and Courts (PCSC) Bill, which is currently before Parliament. IPP offenders are eligible for Parole Board consideration of whether their IPP licence should be terminated, once 10 years has elapsed since their first release. The Bill will require the Secretary of State to refer all eligible IPP offenders to the Parole Board for consideration of licence termination. This will ensure that eligible IPP offenders have every opportunity to have their licence terminated.

Update on the Justice Committee's IPP Sentences Inquiry

In September last year we launched an inquiry into IPP sentences. The aim of the inquiry has been to examine the operation and legacy of the sentence, abolished nearly 10 years ago in 2012, with the aim of identifying possible legislative and policy solutions. At the time of launching our inquiry there were over 3000 people still serving IPP sentences in prison, with over 1700 having never been released. 96% of unreleased IPP prisoners are "post-tariff" (they have served longer than their minimum required sentence length); 570 prisoners have been held in prison for over 10 years longer than the tariff they were given. We issued a public call for evidence and invited written evidence sub-

missions from serving prisoners as well as the wider public. The terms of reference for the inquiry is available on the Committee's website. Since our call for written evidence, we have met privately and publicly with stakeholders affected by the continued existence and operation of the sentence. We have also held three public evidence sessions, including with families of those serving IPP sentences, policy and legal experts, clinical professionals, former ministers, former judges, the Parole Board and the Government, including officials from Her Majesty's Prison and Probation Service (HMPPS). The transcripts of our public evidence sessions are available on the Committee's website. You can also watch the sessions back on parliamentive.tv. We have received over 500 written submissions to the inquiry, many of which are handwritten from prisoners serving IPP sentences. We have also received written evidence from victims of crimes committed by people serving IPP sentences. Due to the volume of responses to the inquiry we have not been able to confirm receipt of submissions in the manner that we would usually like to. Having completed our planned programme of oral evidence the Committee is now reviewing all of the evidence submitted. Published evidence will be made available on the Committee's website. Our next step will then be to agree and publish a final report later in the spring including conclusions and recommendations to put to Government, which the Government will respond to. Thank you to everyone who has shared their experiences with the Committee, submitted evidence to our inquiry and engaged with the Committee. We are now working hard to review the evidence and to publish our report in the coming months.

Innocence is Not Grounds for Appeal

Contrary To Popular Opinion, innocence is not grounds for appeal, and people only have the right to ask for leave to appeal, which can be refused. Nobody has the right to appeal just because the jury got it wrong. When anyone (especially a solicitor, barrister or MP) tells you that you can always appeal against your conviction if you are wrongfully convicted, they are mistaken.

Norhern Ireland - Declassified Documents

Declassified official documents shed an interesting light on British government attitudes towards loyalist infiltration of the security forces and loyalist violence in the 1970s. The British Government has sought to portray its role here as that of the neutral broker, the peacekeeper caught between two warring factions. The secret memos and letters, marked UK Eyes Only, tell a different story. Literally hundreds of mostly Catholic civilians were murdered before the British Government even contemplated the possible extension of internment to loyalists. Clearly the very existence of internment meant that the north was not a democratic state governed by the rule of law. Added to this was the complete denial by the authorities of the loyalist assassination campaign as evidenced by the failure to intern loyalists until 1973. This was tantamount to the state condoning such violence. In December 1971 15 civilians were murdered when loyalists bombed Mc Gurks Bar in Belfast. The RUC and the British Army attempted to blame the IRA. How do we know? Declassified documents.

The failure, until 1992, to ban the largest loyalist paramilitary group, the UDA, together with the toleration of widespread infiltration of the UDR, the locally recruited regiment of the British Army, is clear evidence of a counterinsurgency policy that viewed loyalist paramilitaries as allies in the war against the IRA. It is worth remembering that the UDA was still legal when

the organisation murdered Pat Finucane at the behest of RUC Special Branch, MI5 and the FRU. In effect the relationship between loyalist paramilitaries and the British state was similar to the relationship between the Contras and the US administration of Ronald Reagan. The fact that many civilians were murdered as part of these counter insurgency policies was regarded as mere collateral damage by those in London who prosecuted this war.

Other official documents demonstrate a shocking disregard for civilian lives in respect of the actions of the British Army - when the Attorney General asserted in 1971 that soldiers were incapable of committing murder since they were 'on duty' this gave a de facto 'license to kill' to members of the security forces. Bloody Sunday and the Ballymurphy Massacre was the inevitable result. It would be foolish to believe that this is of historical interest only. The interrogation methods used here in the seventies were used again in Iraq. The Labour government claimed it had 'forgotten' that these methods were ruled illegal by the European court. As late as 2010, a soldier was still serving in the British Army despite his conviction for the murder of Peter Mc Bride in Belfast in 1992

Achieving Enhanced Status

The best way that innocent but convicted people achieve Enhanced Status (which gives you access to more visits, more money, more association time, etc.) is to actively do constructive and positive things that get you noticed. Behaving well, applying for prison jobs (becoming a Listener, Race Relations rep, cleaner, etc. or attending courses, etc.)

When is Evidence Not Evidence

Hearsay Evidence is evidence offered by a witness about what someone else has told them. Hearsay evidence is only evidence as to 'what was said and by whom', and not as to the truth of what was said. Kate saying, "Peter told me he committed the crime," is evidence that Peter said this, but not evidence that Peter actually committed the crime. And always remember, too, that 'evidence' and 'proof' are not the same thing. 'Evidence' is the available body of facts or information indicating whether a belief or proposition is likely to be true (e.g. Mary said she saw Pete commit the crime). On the other hand, the average person's understanding of 'proof' is evidence that, by its very nature, demonstrates that the belief or proposition is definitely true (e.g. A CCTV recording showing Pete committing the crime.)

Convictions for Blackmail and Assault Overturned

John Porch (34) has had his convictions for blackmail and assault in 2016 overturned on appeal after fresh mobile phone evidence was uncovered. The Court heard how, during the investigation, a police officer considered the phones to be "all very old and appeared broken, or had SIM cards or batteries missing" and decided they would contain no "relevant material". The officer appeared to have sustained this view even though Crown Prosecution Service (CPS) staff said the phones should be "interrogated". The Judges concluded that evidence contained in mobile phone messages would have "severely undermined" the credibility of the accuser. In the written ruling, Lady Justice Andrews said "The assumption should not have been made that the seized phones contained nothing of relevance. The officer in the case should not have taken that decision without discussing the matter with the CPS, especially after she knew that the CPS had advised that the seized phones should be interrogated." She added: "It

is hoped that lessons will be learnt." The Appeal Judges considered the mobile phone evidence to be so undermining that they said: "Indeed, faced with those messages it is questionable whether, on reflection, the CPS would have decided to continue with the prosecution." The Prosecution is not seeking a retrial. R v John Porch (Neutral Citation Number: [2020] EWCA Crim 1633, Case No: 201901854 C2.)

PRT Evidence to the MoJ Consultation Human Rights Act Reform

The Prison Reform Trust (PRT) welcomes the opportunity to respond to this consultation. However, we reject the entire premise of the exercise, and do not believe there is need for a Bill of Rights to replace the Human Rights Act (HRA). The human rights framework established by the HRA and the European Convention on Human Rights (ECHR), and upheld by judgements in the domestic courts and the European Court of Human Rights (ECtHR), has played a vital role in helping to ensure that people in prison and their families are treated according to basic principles of dignity and respect. 1 By bringing the rights established in the ECHR into UK domestic law, the HRA has played a significant role in giving individuals, including those held in prison, the power to enforce their rights in practice. We are extremely concerned that the proposals in this consultation will severely limit the ability of people in prison to seek redress when their human rights have been violated. Indeed, many of the proposals in the consultation seem to have been devised with this explicit intention in mind.

We note that prior to this consultation the government established an independent human rights act review (IHRAR) tasked with fulfilling the 2019 Conservative manifesto pledge to "update" the HRA. The independent panel tasked with IHRAR worked for nine months to produce a 580-page report. We do not agree with everything suggested by IHRAR, but they are serious recommendations, arrived at through careful consideration. As Liberty has stated: "The consultation document largely ignores the report, far exceeding IHRAR's terms of reference, soliciting views on proposals explicitly rejected by IHRAR and ignoring specific recommendations, such as for a programme of human rights education in schools and universities. The IHRAR report found no justification for the 'overhaul' now on the table."

We are extremely concerned by the language and tone adopted by the consultation in respect of the human rights of people in prison. As the least visible of our public services, it is vital that prisons can be held accountable for the treatment of the people in their care. England and Wales, along with Scotland, have the highest rates of imprisonment in western Europe. 3 Prison in the UK is the punishment of last resort and is the highest form of legally sanctioned coercive intrusion into an individual's liberty. A prisoner is dependent on the prison for virtually every aspect of their existence. Prison determines a person's confinement, movement, association, work, level of contact with the outside world, accommodation, education, recreation, healthcare and even the food they eat. As such, people in prison need to be able to ensure their rights are respected and protected through our domestic laws.

It is deeply concerning that there is no acknowledgement in the consultation of the importance of a robust human rights framework for the protection of individuals subject to imprisonment by the state. Furthermore, there is no acknowledgement of the positive contribution of judgments made by domestic courts and the ECtHR in cases taken under the HRA and ECHR to safeguarding the fundamental human rights of prisoners. Instead, the consultation makes selective use of individual cases taken by prisoners in order to paint a misleading picture of how the HRA operates in practice as "evidence" of a case for reform (see for instance paragraphs 126-130). It is impossible to escape the conclusion that, with respect to the treatment of prisoners, the government would rather deny their legitimate rights than accomplish a long overdue reform of the conditions in which they are held.

It is extraordinary that the Government should consider that having to pay prisoners £7m in compensation because it has subjected them to "a combination of negligence, inhuman and degrading treatment (under Article 3), and the violation of the right to a privacy (under Article 8) and discrimination (under Article 14)" represents an argument for reducing legal protection. The solution surely lies in delivering a prison system that does not inflict such suffering and is therefore not forced to settle claims it cannot defend. As successive inspection reports and other independent evidence repeatedly demonstrates, the sad reality is that our prisons fail to reach even the most basic standards of lawful and decent detention.

PRT is not a legal charity, but we share many of the concerns raised by a number of expert human rights bodies regarding the potential impact of these proposals. We are particularly concerned by the potential implications of the provisions consulted on in question 27 to link rights to responsibilities, and reduce damages awarded in human rights cases according to an individual's previous conduct. This and the other divisive provisions put forward in the consultation have the potential to exclude whole categories of individuals, including those in prison or with criminal convictions, from any form of effective redress when their human rights have been violated. It is all too easily forgotten that the ECHR—and the Universal Declaration of Human Rights before it—were prompted in large part by the unspeakable treatment of imprisoned people. Prior to that Declaration, both Governments and very substantial portions of the public had acted on the belief that such treatment could be justified on the basis that whole categories of people were less deserving of equal treatment on the grounds of shared humanity.

If enacted, these proposals would send a dangerous message to those working in the prison system that the rights of those held in their care do not count. This could undermine respect for the importance of a culture of human rights in prisons, which in the absence of any statutory foundation of minimum standards is vital for ensuring that people in prison are treated with a minimum of decency and respect. It could also undermine the work of scrutiny bodies who work to uphold human rights standards in prisons such as HM Inspectorate of Prisons and the Prisons and Probation Ombudsman. These bodies already struggle within their existing powers to ensure that their recommendations are taken forward and enacted.

Our response to the consultation questions below draws extensively on the model submission made by the British Institute of Human Rights, including the repetition of recommendations made by the organisation in response to specific questions.

Serving Prisoners Supported by MOJUK: Derek Patterson, Walib Habid, Giovanni Di Stefano, Naweed Ali, Khobaib Hussain, Mohibur Rahman, Tahir Aziz, Roger Khan, Wang Yam, Andrew Malkinson, Michael Ross, Mark Alexander, Anis Sardar, Jamie Green, Dan Payne, Zoran Dresic, Scott Birtwistle, Jon Beere, Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan & Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Robert Knapp, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Peter Hannigan