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'I Got More Justice From Mugabe Than I Ever Got Here'

Jon Robins explores the case of Clive Freeman, who was jailed in 1989 for murder but has always protested his innocence and is now mounting a fourth attempt for his guilty verdict to be reconsidered. Clive Freeman was sent to prison in 1989 for the murder of an alcoholic drifter whose charred remains were found in his burnt-out flat in Rotherhithe, south London. He has always protested his innocence and is now one of the country's longest-serving prisoners. But, the 76-year old has one final chance to clear his name. "I promised my wife I would only leave prison as a justly acquitted I man," Freeman told me last month. "I'm a man of faith. My word is sacrosanct." Diagnosed with prostrate cancer in 2012, he is terminally ill and currently being treated with radiation therapy.

If Freeman is to overturn his conviction, the miscarriage of justice watchdog must send his case back to the courts. His lawyers have now made a fourth application to the Criminal Cases Review Commission (CCRC) to do this. "I am an embarrassment to them," Freeman said. "They're waiting for me to die. I was imprisoned under the Mugabe Government under the emergency powers legislation and without a trial. I got more justice from Mugabe than I ever got from the CCRC."

From Rhodesia to London: Clive Freeman was born in Salisbury, Rhodesia in 1943 and was forced to flee Zimbabwe (as it became) for London 43 years later. A successful businessman living the high life in the days of white rule in Rhodesia, he lost everything when Robert Mugabe came to power. Freeman, a brilliant horseman, joined a Rhodesian mounted infantry unit known as the Grey Scouts to fight the insurgents. After independence, he was involved in a plot to undermine the new political regime. Freeman was heartbroken to leave his family, drinking heavily and most likely suffering post-traumatic stress disorder. He had witnessed comrades die in what was known as the Bush War and ended up on death row for 90 days at Chikarubi maximum security prison before being transferred to Salisbury prison, in which he was locked up for five months for 23 hours-a-day with 42 inmates in a cell built for eight.

He was in a desperate state when he arrived in London. Instead of writing letters, he would exchange recorded tapes with family and friends. Much of the evidence used against him was in the form of transcripts of drunken 'stream-of-consciousness' rants in which Freeman told his brother that he was contemplating suicide, rearranging his insurance and thinking about a fraudulent claim. He thought he had bowel cancer and was concerned that its discovery would invalidate his policy. And then, Freeman contends, Alexander Hardie set himself on fire leaving a (cancer-free) corpse in his flat. Just before, Freeman changed his name and, on the day when the body was discovered, he left the country. The jury took less than an hour to convict.

The 'Burking' Theory: When I put it to Freeman that it all sounds too great a coincidence, he insisted that's exactly what it was: "a coincidence". "It didn't happen how they told it at court," he said. Freeman told me that he hadn't 'fled' London, but had been arranging his departure for months and that his name change was because he planned to return to Zimbabwe without attracting the attention of the new regime. He said he also needed to change his life insurance because the political volatility in Zimbabwe had rendered his old policy worthless. He said his threats of suicide was a mixture of despair and inebriated attention-seeking and that, more than anything, he wanted his wife back. Freeman did not take the stand at his trial so the jury didn't get to hear his side of the story. He chose not to because he thought he had a watertight alibi: he had stayed in a hotel on the night Hardie died and the receptionist gave evidence that he would not have been able to leave the hotel and re-enter without her noticing. Freeman was clearly in a bad way in London, but was he so out of his mind to think that he could have gotten away with it? Hardie made an improbable body-double. Freeman was a big man, over six foot and 15 stone; whereas Hardie was five foot seven, less than 10 stone and missing a finger. Then there was the bizarre medical evidence. The Crown alleged that Hardie had been murdered by a technique known as 'burking' – described by the judge as "kneeling on the chest with his knees and hands to make sure that no breath goes into the lungs". It owes its name to Burke and Hare who murdered 16 people in the 19th Century to supply unmarked cadavers to medical students in Edinburgh.

The jury had to choose between diametrically opposing views. Dr Richard Shepherd, just two years into his career as a pathologist, came up with the eye-catching 'burking' theory. But this was countered by another pathologist of 44 years' experience who offered the more prosaic alternative that Hardie's heart gave way as a result of drink and drugs. Dr Shepherd told the court that Freeman would have learned the technique in the Grey Scouts but – as the new application to the miscarriage of justice watchdog makes clear – there has never been any evidence submitted to support that notion.

The CCRC application contains new support from four experts adding to the evidence submitted to it by six pathologists over the past decade rubbishing the 'burking' theory. Freeman's legal team are especially critical of the Commission's failure to instruct an independent pathologist to review the medical evidence. Three years ago, eight new boxes of paperwork to do with Freeman's case were explored. This process revealed Dr Shepherd's notes from a first post-mortem, recording the most probable cause of Hardie's death as alcoholism and acute pancreatitis. Nine days later, he had changed his mind and found bruising cited in support of the 'burking' theory. The jury did not hear this evidence.

Father Hugh Sinclair first met Freeman in 1989 as s chaplain at Wormwood Scrubs Prison. "For me, his innocence seems obvious," he told me. "The Birmingham Six, Guildford Four and Carl Bridgewater defendants were all under my pastoral [care]. You develop a sixth sense. It's difficult to keep telling lies in prison and expecting people to believe them." Clive Freeman is due for a Parole Board hearing next month, which will determine whether he can be safely released back into the community. "They used to ask me 'are you in denial?'," he said last month. "In 1998 my wife was dying and they said 'if you changed your stance you'd be out in 18 months'… But how could I? I am an innocent man."

Appeal Planned In 'Coughing Major' Case

As viewers of ITV's new drama Quiz will know the former army officer and Mensa member Charles Ingram was convicted for cheating on Who Wants To Be A Millionaire? on the strength of 19 coughs which the prosecution said indicated which answer he should give during the course of a single episode. The Bosnia veteran and his wife, Diana, together with a man the couple had never met (a college lecturer called Tecwen Whittock) were found guilty of using an elaborate coughing scheme to cheat their way to a £1m in 2001. It so happens that the airing of Quiz (which features Matthew Macfadyen and Sian Clifford as the Ingrams and Michael Sheen as programme's host Chris Tarrant) coincides with news of a possible appeal in what has become known as 'the case of the coughing Major'.

'The coughs sound like pistol shots. They are that the same audio level as Chris Tarrant's speaking,' says the Ingram's solicitor Rhona Friedman who set up who set up the not-for-profit criminal law firm Commons. The lawyer is referring to the audio-recording of the show that was played to the jury (known as 'Tape G') which later featured in a damning documentary presented by Martin Bashir which was broadcast by ITV called Millionaire: A Major Fraud. Friedman explains: "What Charles Ingram and Chris Tarrant heard would have been very different to what the jury heard."

Rhona Friedman was introduced to the case by the late investigative journalist Bob Woffinden who was convinced of the couple's innocence. The journalist co-wrote a book on the case Bad Show: the Quiz, the Cough and the Millionaire Major which inspired a stage-play. Theatregoers were given the opportunity to take the place of the jury via electronic voting. Overwhelmingly audiences found in favour of the couple; although not Chris Tarrant who, although he told the court he had no suspicions on the night, only last weekend wrote a piece for the Daily Mail saying Ingram was guilty. It is not known how the trial judge, Judge Geoffrey Rivlin QC, who also saw the production, voted. At the trial at Southwark Crown Court in 2003, Rivlin told the jury that when Ingram was 'either a genuine millionaire or a fraudster'. After deliberating for nearly 14 hours, they opted for the latter and the Ingrams received an 18 month prison sentence suspended for two years and Whittock received 12 months.

It is to ITV's credit that a drama about an attempt to defraud its most successful programme very much leaves open the possibility that Charles Ingram is actually innocent. The portrayal of the former Bosnia veteran, demonised in the press, is sympathetic. He comes across as an eccentric but likeable character. 'Diana makes the point that the Charles 20 years ago is very different to the Charles now,' says Friedman. 'He has been crushed by the experience. He was an army guy and to lose that life – a career built on reputation and honour – is awful.'

Friedman insists that the media depiction of Diana as 'a lady Macbeth character' manipulating her husband is 'ludicrous'. Again, Quiz's depiction of Diana as the quizz-obsessed wife is sympathetic. 'Charles is obsessive and can't really concentrate on more than one thing at a time,' Friedman says. 'The idea that he would be able to take part in this daring feat of listening to coughs while pretending not to, answering questions, dealing with Chris Tarrant and to do all that under the studio lights with cameras pointing at him is frankly preposterous.'

For any appeal to be successful, there has to be compelling fresh evidence. According to Friedman, in this case there are developments in forensic science plus new analysis of the evidence that shows 'lacunas in the continuity trail ' not spotted at the trial. The lawyer explains that the Crown gave the court an undertaking that nothing had been done to alter the content of the audio and video exhibits at trial. 'I don't think they should have given that assurance,' she says. 'I don't think there was an any bad faith. They simply relied upon what they were told by the police and the victims in the case who were allowed to produce the forensics exhibits.'

As viewers of Quiz will have learned, the audio recording played at trial was compiled and edited by the TV production company Celador's in-house editing team. The first episode of the drama reveals that Celador's boss personally offers to underwrite the financial risk of a TV show premised on the possibility of a £1 million payout when pitching the idea to ITV.

There were some 192 coughs recording during the show but only 19 were considered to be 'significant' at the trial (and of those one followed an incorrect option). Charles Ingram's winning performance spanned two episodes. 'All of the significant coughs were supposed to be on day two after Charles had bumbled his way to £4,000 on day one,' Friedman says. 'On one of the early questions there are no coughs at all that the prosecution said were significant. When

you listen to the pattern some coughs are directly after the significant word and some are several seconds afterwards. In reality, there is no rhyme nor reason as to when coughs occur.' The drama represented Diana coughing at a significant moment which was widely reported. 'The prosecution abandoned that theory at trial,' Friedman says. 'It never had any legs.'

Then there is the couple's alleged co-conspirator, a potential contestant only in the studio on the night because he was hoping to make it into the next round. According to the prosecution, the plot was hatched in a less than five minute conversation between him and Diana. There was never any suggestion Charles Ingram had even met Tecwen Whittock. Quiz portrays Diana, her brother and father as quiz fanatics and it was only by chance that fellow obsessive Whittock was on the same show. That he was on the show at all was only confirmed the day before. Diana said that the only reason for her phone call was to wish a fellow fan good luck.

According to the defence expert, Whittock suffered from three respiratory conditions: asthma, rhinitis and hayfever. Other contestants told the court that he had been coughing and spluttering throughout the show. Colleagues gave evidence that he was known for his annoying and persistent cough. As Friedman says: 'So why, in a cunning scheme to defraud ITV of £1 million, rely on somebody you had never met before, somebody who's sitting behind you and, for the plan to work, you have to rely on this guy ace-ing all the questions. Then the one guy you chose has a persistent cough. Why?'

44 Suspected Boko Haram Members Found Dead In Chad Prison

Guardian: A group of 44 suspected members of Boko Haram who had been arrested in Chad during a recent operation against the jihadist group have been found dead in their prison cell, apparently poisoned, Chad's chief prosecutor has announced. Speaking on national television on Saturday, Youssouf Tom said the prisoners were found dead on Thursday1th April 2020. Autopsies on four dead prisoners revealed traces of a lethal substance which had caused heart attacks in some victims and severe asphyxiation in others, he said. The dead men were among a group of 58 suspects captured during a major army operation around Lake Chad launched by the president, Idriss Déby Itno, at the end of March. "Following the fighting around Lake Chad, 58 members of Boko Haram had been taken prisoner and sent to [the capital city] N'Djamena for the purposes of the investigation. On Thursday morning, their jailers told us that 44 prisoners had been found dead in their cell," Tom said, adding that he had attended the scene. "We have buried 40 bodies and sent four bodies to the medical examiner for autopsy."

An investigation was ongoing to determine exactly how the prisoners had died, he said. Earlier this week, the justice minister, Djimet Arabi, told AFP the captured men had been handed over to the court system on Wednesday, and had been due in court for trial on Thursday. A security source, speaking on condition of anonymity told AFP that "the 58 prisoners were placed in a single cell and were given nothing to eat or drink for two days". Mahamat Nour Ahmed Ibedou, secretary general of the Chadian Convention for the Protection of Human Rights (CTDDH), made similar accusations. Prison officials had "locked the prisoners in a small cell and refusing them food and water for three days because they were accused of belonging to Boko Haram," Ibedou told AFP. "It's horrible what has happened."

The government denied the allegations. "There was no ill-treatment," Chad's justice minister, Djimet Arabi, told AFP by telephone. "Toxic substances were found in their stomachs. Was it collective suicide or something else? We're still looking for answers," he said, adding that the investigation was still ongoing. One of the prisoners was transferred to hospital on

Thursday, but he was “faring much better” and had rejoined “the other 13 prisoners still alive and who are doing very well,” the minister said.

The military operation against Boko Haram killed more than a thousand of the group’s militants and cost the lives of 52 soldiers, a Chadian army spokesman said. The operation ran from 31 March to 8 April. It was launched in response to a devastating attack on Chadian troops on 23 March on a base at Bohoma, in the Lake Chad marshlands, which killed 98 soldiers. It was the largest-ever one-day loss suffered by the army. Idriss warned his allies in the region that Chad’s army will no longer take part in operations outside the country.

Release of Prisoners Alteration of Relevant Proportion of Sentence

As of 1st of April 2020, the Government's election pledge of delaying the release point of serious sexual and violent offenders came into force by way of the Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order 2019. The provisions of the Order have the effect of modifying the application of s237(1) of the Criminal Justice Act 2003 in respect of certain sentences of imprisonment. The relevant articles of the instrument are articles 2 and 3, which read: 3. In section 244 of the 2003 Act (duty to release prisoners), the reference to one-ha/fin subsection (3)(a) is to be read, in relation to a prisoner sentenced to a term of imprisonment of 7 years or more for a relevant violent or sexual offence, as a reference to two-thirds. 4. In section 264 of the 2003 Act (consecutive terms), the reference to one-half in subsection (6)(d) is to be read, in relation to a sentence to a term of imprisonment of 7 years or more for a relevant violent or sexual offence, as a reference to two-thirds. A "relevant violent or sexual offence", is defined as one found within Part 1 or Part 2 of Schedule 15 of the Criminal Justice Act 2003.

This means that, having received a sentence of imprisonment over 7 years in length, Defendants will serve two-thirds of their sentence in custody before release on licence instead of the usual half. The prison is obligated to release them on licence at the two-thirds point, as they would be at the conclusion of half of any other fixed-term sentence of imprisonment.

The new provisions raise two particular points worth noting. The first is that sentences of less than seven years will not attract the modified application. Therefore, the difference in time served in custody by an offender who received a sentence of 6 and a half years for a s18 assault (3 years 3 months) and one who received a sentence of 7 and a half years (S years) is stark.

Secondly, the provisions relate to individual sentences. If an offender was sentenced to 9 years imprisonment for an offence of kidnapping (a relevant violent offence), as well as a sentence of 5 years imprisonment for a s18 wounding (also a relevant violent offence) which was made consecutive, the provisions would only apply to the kidnapping sentence. Therefore, the offender would serve a total of 8 and a half years in custody, comprised of 6 years for the kidnapping and 2 and a half years for the s18. The provisions do not apply:

To offenders who are under the age of 18 when they are sentenced To offenders who are sentenced before 1st April 2020 To offenders who are sentenced under s236A of the CJA 2003 as an offender of particular concern The provisions apply to all relevant sentences passed after April 1st 2020. This means that a plea entered on March 15th but sentenced on April 15th would be sentenced in accordance with these provisions.

This new approach in sentencing needs to be taken into account by defendants and practitioners alike. Clients, of course, should be made aware if there is a risk that their sentence may fall within the provisions. It may well be the case that Goodyear indications are sought from judges with these provisions in mind going forward.

Gary Haggarty Sentence Increased

[1] This reference arises as a result of the imposition of an effective tariff of 6½ years for a wide range of serious terrorist offences committed by the offender during the period between 1991 and 2007. Throughout that period the offender was a member of the UVF rising to the spurious “rank” of “Provost Marshal”. He pleaded guilty to 202 counts including 5 murders, 5 attempted murders, one count of aiding and abetting murder, 23 counts of conspiracy to murder, various serious offences involving firearms, explosives and punishment beatings and 4 counts of directing terrorism. In addition he has asked for 301 offences to be taken into account. The learned trial judge correctly concluded that this catalogue of offending reflected the total immersion of the defendant in terrorist activities over a 16 year period. His judgment sets out the disturbing detail in the most serious of the offences. The Director of Public Prosecutions submits that the tariff is unduly lenient and should be increased.

[2] Murphy QC and Russell appeared for the Director and O’Rourke QC appeared with Doherty QC for the offender. We are grateful to all counsel for their helpful written and oral submissions.

[3] The background was helpfully set out by the learned trial judge. On 25 August 2009 the defendant was arrested by arrangement, interviewed and charged in connection with the murder of John Harbinson. He had been invited to consider providing assistance at a previous meeting he attended with members of the Historical Enquiries Team and the Security Service. After he had been charged, the defendant indicated a willingness to assist the authorities within the framework provided by the Serious Organised Crime and Police Act 2005 (“SOCPA”).

[4] Sections 73 to 75 of SOCPA placed on a statutory footing the practice whereby defendants who had pleaded guilty to criminal charges and provided information and assistance to the police received discounting of their sentences. By virtue of Section 73, a defendant who pleaded guilty and, pursuant to a written agreement with a specified prosecutor, provided or offered to provide assistance to an investigator or prosecutor was eligible to receive a reduction in sentence. Before any agreement was formalised with the offender, police conducted a number of “scoping interviews” to examine the nature and extent of the assistance that the offender could provide and to inform the decision as to whether he was a suitable person to be offered a SOCPA agreement. There were 21 such interviews under caution with this offender between 5 and 9 October 2009.

[5] On 13 January 2010 the offender entered into an agreement with a Specified Prosecutor pursuant to section 73 of SOCPA. That required him to: (a) Admit fully and give a truthful account of his own involvement in, and knowledge of, criminal conduct; (b) Plead guilty in court to such criminal offences which he admitted and which the prosecutor would determine he would be charged with; (c) Give a truthful account of the identities and activities of all others involved in that criminal conduct; (d) Give truthful evidence in any court proceedings arising from the prosecution of any offences disclosed.

[6] On foot of the agreement the offender was interviewed on 1015 occasions between 2010 and 2017. The product of those interviews comprised 12,244 pages of interview transcript. In those interviews he set out in detail his own involvement in the commission of over 500 offences. He has also provided specific details of the identity and roles of others who participated in the offences. Without those admissions there would not have been sufficient evidence to have sustained a prosecution against him.

[7] Sentencing principles’ As the learned trial judge correctly set out in light of the convictions for murder the court was obliged to pass a life sentence and fix a minimum term pursuant to Article 5(2) of the Life Sentences (Northern Ireland) Order 2001 being such period as the court considered appropriate to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence or the combination of the offence and one or more offences

associated with it. The minimum term is usually referred to as the tariff. The offender is not entitled to be released until that period has passed and may not be released for a substantial period thereafter unless the Parole Commissioners are satisfied that it is no longer necessary for the protection of the public from serious harm that he should be confined.

[8] Guidance on the approach to the determination of the tariff was given by this court in R v McCandless and others [2004] NICA 1. In the case of the killing of an adult victim arising from a quarrel or loss of temper between two people known to each other the minimum term is normally 12 years before taking into account aggravating and mitigating factors. Where the offender's culpability is exceptionally high or the victim is in a particularly vulnerable position the minimum term before taking into account aggravating and mitigating factors is 15/16 years. In McCandless the court said that such cases are characterised by feature which makes the crime especially serious such as: "(a) the killing was 'professional' or a contract killing; (b) the killing was politically motivated; (c) the killing was done for gain (in the course of a burglary, robbery etc.); (d) the killing was intended to defeat the ends of justice (as in the killing of a witness or potential witness); (e) the victim was providing a public service; (f) the victim was a child or was otherwise vulnerable; (g) the killing was racially aggravated; (h) the victim was deliberately targeted because of his or her religion or sexual orientation; (i) there was evidence of sadism, gratuitous violence or sexual maltreatment, humiliation or degradation of the victim before the killing; (j) extensive and/or multiple injuries were inflicted on the victim before death; (k) the offender committed multiple murders."

[9] McCandless also recognised that there were cases which would require a substantial upward adjustment. The examples set out were those cases involving a substantial number of murders or cases where several factors identified as attracting the higher minimum term were present. In those cases the result might be a minimum term of 30 years and in cases of exceptional gravity the judge rather than set a minimum term may impose a whole life sentence.

[10] This is clearly a case of the utmost seriousness. The offender played a major part in the activities of a murderous, terrorist gang over a period of 16 years. He committed five murders. We are satisfied that several of the features characterising the higher starting point are present. His killings were professional in the sense that they were acts committed to further the aims of a well-resourced and much feared terrorist gang. The terrorist gang claimed to have political motivation. The victims were deliberately targeted because of their religion. In the killing of Mr Harbinson in particular there was evidence of gratuitous violence involving extensive and multiple injuries.

[11] The learned trial judge noted the judgment in R v Hamilton [2008] NICA 27. That was a case where this court quashed a whole life order and imposed in the alternative a tariff of 35 years. It was a truly gruesome case where the offender had stopped to give a lift to a pensioner making her way home from mass and then took her to a secluded place where he sexually assaulted her and then hid her body. He had previous convictions for a similar approach in respect of sexual violence. Although his record was clearly material, the sentence was passed in respect of a single attack including the aftermath. The court noted that only one factor justifying a sentence in the higher range was present. Hamilton was, therefore, quite different from this case.

[12] The learned trial judge identified three reasons for not imposing a whole life sentence in this case. His final reason was that he was not aware of any terrorist offences in this jurisdiction in which a whole life tariff had been imposed. In our view the absence of any case justifying such tariff in the past ought not to prevent the imposition of a whole life tariff where it was appropriate. In the absence of mitigating factors we are quite satisfied that this was a case for a whole life tariff.

[13] We accept, however, that mitigating factors should be taken into account before reaching

the conclusion that no whole life tariff should be set. The first mitigating factor identified by the learned trial judge was that the offender had pleaded guilty and accepted responsibility for his crimes. We recognise that the weight to be given to this factor must vary with the circumstances.

[14] This factor was considered by the English Court of Appeal in R v Neil Jones and others [2006] 2 Cr App R (S) 19 which included the case of R v Hobson. Hobson had murdered twin sisters in separate incidents and an elderly couple in a third incident. The circumstances were such that the court was satisfied that the offences were so serious that a whole life order was appropriate. The offender had indicated from an early stage that he accepted responsibility for the offences but did not enter his plea until the issue of diminished responsibility had been investigated. Despite the plea the court was satisfied that the whole life order was appropriate.

[15] In that case there was substantial evidence linking the offender with the crimes. In this case the offender's responsibility for many of the crimes could not have been established without his admissions and in a large number of cases was not known even on an intelligence basis. That is a factor which in our view gives greater weight to the plea in this instance. The third factor taken into account by the learned trial judge was that to impose a whole life sentence would defeat the objects of the SOCPA scheme which gives statutory recognition to the well-established principle of discounting the sentences of those defendants who provide assistance to the prosecuting authorities. We agree that the learned trial judge was entitled to have some regard to this factor.

[16] There was an additional mitigating factor which ought to have been taken into consideration at this stage. Between 1993 and 2004/5 it was submitted on behalf of the offender that he had acted as a covert human intelligence source. During that period he had provided material concerned with operational planning, recruitment, targeting, weapons procurement and storage, explosives and tensions or feuds within loyalist paramilitary groups. He gave preemptive intelligence allowing police to take prior action in approximately 44 potential incidents. At least 34 individuals were identified as being under threat and police were able to take mitigating action. On occasion weapons were recovered and police were made aware of the identity of some of those involved. In some cases prosecutions followed.

[17] The offender was of course remunerated in respect of his information and continued to operate at a high level within this terrorist organisation. There is no doubt that his position within the organisation made useful information available to him which he passed to police but it is also clear that he felt at liberty to engage in serious terrorist activity during this period.

[18] Taking the appropriate mitigating factors into consideration we agree with the learned trial judge that the mitigating factors were such as to moderate the arguments in favour of a whole life term. The prosecution submission was that in the event of a whole life term not being chosen the tariff would lie between 35 and 40 years before taking into account mitigation. We therefore cannot criticise the learned trial judge for adopting a term of 35 years but in our view where a whole life term is moderated by mitigating factors the appropriate minimum term before taking into account mitigation will normally be 40 years. That is the figure we consider appropriate in this case.

[19] SOCPA Discount - We agree that the learned trial judge has identified the relevant principles in approaching the SOCPA discount. The overriding principle was identified by Sir Igor Judge in R v P; R v Blackburn [2008] 2 All ER 684 at [22]: "There never has been, and never will be, much enthusiasm about any process by which criminals receive lower sentences than they otherwise deserve because they have informed on or given evidence against those who participated in the same or linked crimes, or in relation to crimes in which they had no personal involvement, but about which they have provided useful information to the investigating authorities. However, like the process which provides for a reduced sentence

following a guilty plea, this is a longstanding and entirely pragmatic convention. The stark reality is that without it major criminals who should be convicted and sentenced for offences of the utmost seriousness might, and in many cases, certainly would escape justice. Moreover, the very existence of this process and the risks that an individual for his own selfish motives may provide incriminating evidence, provide something of a check against the belief, deliberately fostered to increase their power, that gangs of criminals, and in particular the leaders of such gangs, are untouchable and beyond the reach of justice. The greatest disincentive to the provision of assistance to authorities is an understandable fear of consequent reprisals. Those who do assist the prosecution are liable to violent ill-treatment by fellow prisoners generally, but quite apart from the inevitable pressures on them while they are serving their sentences, the stark reality is that those who betray major criminals face torture and execution. The solitary incentive to encourage co-operation is provided by a reduced sentence, and the common law, and now statute have accepted that this is a price worth paying to achieve the overwhelming and recurring public interest that major criminals, in particular, should be caught and prosecuted to conviction."

[20] The approach to sentencing was helpfully set out at [38] [39]: "[38] The first principle is obvious. No hard and fast rules can be laid down for what, as in so many other aspects of the sentencing decision, is a fact specific decision. [39] The first factor in any sentencing decision is the criminality of the defendant, weight being given to such mitigating and aggravating factors as there may be. Thereafter the quality and quantity of the material provided by the defendant in the investigation and subsequent prosecution of crime falls to be considered. Addressing this issue, particular value should be attached to those cases where the defendant provides evidence in the form of a witness statement or is prepared to give evidence at any subsequent trial, and does so, with added force where the information either produces convictions for the most serious offences, including terrorism and murder, or prevents them, or which leads to disruption toor indeed the breakup of major criminal gangs. Considerations like these have to be put into the context of the nature and extent of the personal risks to and potential consequences faced by the defendant and the members of his family. In most cases the greater the nature of the criminality revealed by the defendant, the greater the consequent risks. Accordingly, the discount for the assistance provided by the defendant should be assessed first, against all other relevant considerations, and the notional sentence so achieved should be further discounted for the guilty plea. In the particular context of the SOCPA arrangements, the circumstances in which the guilty plea indication was given, and whether it was made at the first available opportunity, may require close attention. Finally, we emphasise that in this type of sentencing decision a mathematical approach is liable to produce an inappropriate answer, and that the totality principle is fundamental. In this court, on appeal, focus will be the sentence, which should reflect all the relevant circumstances, rather than its mathematical computation."

[21] This court approved that approach in R v Hyde [2013]. It was submitted on behalf of the prosecution that different considerations arose in murder cases because of the nature of that crime. This court has recognised in R v Turner [2017] NICA 52 that the application of sentencing principles can be influenced by the fact that the crime which the offender has committed is murder. In R v King [1985] 82 Cr App R 120 Lord Lane CJ said that having regard to the quality and quantity of the material, the willingness to give evidence and the degree to which the offender has put himself and his family at risk created expectation of some substantial mitigation varying from about ½ to 2/3 reduction. We do not accept that any of the cases relied upon by the prosecution before the trial judge support the proposition that the expectation on the part of someone convicted of murder of the effect on the tariff should be different in appropriate circumstances.

[22] It is common case that the offender has given a vast volume of information in respect of his own criminality and that of others. This includes information in relation to 519 incidents. In 194 of these incidents there are independent records to indicate that the incident occurred. The police have confirmed that the offender has a very good memory and the level of detail in his accounts is remarkable given the significant number of incidents in which he has been involved and the time that has passed since the incident occurred. His accounts have been clear and consistent.

[23] There has been some concern about his credibility and reliability. He made allegations of serious criminality including conspiracy to murder against two named police officers between February 1994 and June 1994. Extensive enquiries by the Police Ombudsman revealed that one of the named officers was on sick leave from 16 February 1994 until 1 June 1994. The prosecution also considered that the offender had minimised his role in relation to specific offences and in relation to his involvement in UVF offending that occurred after the Good Friday Agreement. In large measure his contribution has been extremely valuable in intelligence terms but the prosecution assessment is that the reliability and credibility of the offender are such that the test for prosecution could only be met in circumstances where there was independent supporting evidence of sufficient quality to support his account.

[24] Consideration Applying the guidance and principles set out above we consider that the minimum term before taking into account mitigating circumstances was 40 years. The trial judge allowed 15% for the assistance given before he entered into the SOCPA agreement. That is clearly a very significant discount but we cannot take issue with it as it reflects the potential saving of a number of lives.

[25] The discount under the 2005 Act should be applied to the figure resulting from the aggravating and mitigating circumstances. To apply the discount under the Act to the figure comprising only aggravating circumstances leads to an increase in the discount. That, in our view, is not consistent with the underlying scheme of the 2005 Act that the discount for assistance should be applied once aggravating and mitigating factors excluding the discount for the plea have been factored in.

[26] The learned trial judge allowed a discount of 60% under the 2005 Act. That again reflected the very considerable quantity of information and the generally good quality of what was provided. Mr O'Rourke submitted that this was an exceptional case where a much higher discount should have been provided. We do not accept that submission. Although the offender was willing to give evidence the assessment was that the test for prosecution would only be met where there was corroboration. That was material in assessing the discount.

[27] The next stage in the sentencing exercise was the application of the discount for the plea. The judge allowed a discount of 25%. We consider that was generous taking into account that the plea was part of the reason for not imposing a whole life term. We cannot say, however, that it lay outside the boundary of what was properly within the discretion of the sentencer.

[28] Finally, we do not consider that any discount for double jeopardy is appropriate. This offender is not facing a return to prison or a change in his circumstances as a result of any increase in the tariff other than if he is brought back under the 2005 Act and no such application is in place.

[29] Conclusion - As set out above we consider that the minimum term before taking into account mitigating factors was 40 years. Applying the appropriate discount for the pre-agreement disclosures, a 60% reduction under the 2005 Act and a generous 25% discount for the plea results in a tariff of 10 years. We are satisfied, therefore, that the tariff of 6 ½ years was unduly lenient given the catalogue of infamy and murder of which he was guilty. We substitute a tariff of 10 years. That represents a very considerable discount from a 40 year starting point and provides a generous incentive for those who are prepared to assist in combating terrorist violence.

`Is An Offence Under Section 13(1) Terrorism Act 2000 A Strict Liability Offence?

Offence: The appellants were charged under section 13(1) of the Terrorism Act 2000 ('section 13(1)') which materially states: (1) A person in a public place commits an offence if he – (a) wears an item of clothing, or (b) wears, carries or displays an article, in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or supporter of a proscribed organisation.

Facts: In January 2018 the appellants had taken part in a demonstration against the perceived actions of the Turkish state in Arfin. Each carried a flag of the Kurdistan Workers Party (the Partiya Karkeren Kurdistane – "the PKK"), which is an organisation proscribed under the Terrorism Act 2000. The Crown's case relied on the appellants carrying the flags and expert witness evidence that the flags they carried were PKK flags. The appellants did not give evidence. They were found guilty of the section 13(1) offence after trial in the Magistrates' and on appeal at the Crown Court. The Crown Court held that section 13(1) was a strict liability offence and although article 10 European Convention on Human Rights ('ECHR') was engaged, section 13(1) was a proportionate response. The questions for the Court to address from the cases stated were: 1) Is section 13(1) an offence of strict liability; 2) If so, is that compatible with article 10 of the ECHR?

Judgment: For 5 reasons the Court held that section 13(1) did create an offence of strict liability (see [50 – 60]): 1. The language of section 13(1) is clear and unambiguous. Although it requires the wearer of the article in question to know that he is wearing, carrying or displaying the item or article, it only requires that this is done in a way, or in circumstances that are, capable of arousing reasonable suspicion; 2. The mischief section 13(1) is aimed at remedying is conduct which "leads others reasonable to suspect the wearer of being a member or supporter of a proscribed organisation, that being conduct which gives rise to a risk that others will be encouraged to support that proscribed organisation or to view it as legitimate". This is a risk created regardless of the wearer's intent; 3. The predecessor to section 13(1) was drafted in similar terms and Parliament had not taken the opportunity to expressly indicate a requirement of mens rea; 4. The amendments to the Terrorism Act 2000 which inserted section 13(1A) and section 12(1A) were indicative – Parliament had chosen not to amend section 13(1), section 13(1A) was drafted in similar terms and section 12(1A) required an element of recklessness; 5. The Terrorism Act 2000 created other offences which require mens rea and there is no express defence to section 13(1), such as within section 57, having regard to the purpose of the accused.

The Court also found that section 13(1) was compatible with article 10 ECHR (see [63 – 72]: – The restriction is sufficiently prescribed by law; – Section 13(1) pursues a legitimate aim as it is a "necessary part of the appropriate mechanism" for preventing the activities and/or spread of terrorist organisations; – There is no apparent lesser alternative means of prohibiting conduct which creates the stated risk; – Section 13(1) is not disproportionate because it is not limited to circumstances where the expression incites violence – this is only a factor to consider under the proportionality analysis; – The maximum penalty for section 13(1) cannot be regarded as severe in comparison to other terrorism-related offences; – The appellants had no need to display the flags of PKK and there was no substantial interference with their article 10 rights; – Although section 13(1) could be committed without someone knowing their conduct arises the necessary suspicion, that would not be likely to happen in practice.

Comment: The judgment is significant because the Court was prepared to rebut the strong presumption and find that Parliament had created an offence of strict liability despite the absence of an express statement. The Court particularly emphasised that in these cases, where the presumption of a mens rea requirement is rebutted on the basis of necessary implication, the dicta of Lord Nicholls in B (a minor) v DPP [2000] 2 AC 428 is of particular guidance and, therefore, Courts must focus on whether the implication is 'compellingly clear' having regard to (see p463H – p464A): 1. The language used; 2. The nature of the offence; 3. The mischief sought to be prevented; and 4. Any other circumstances which may assist in determining what intention is properly to be attributed to Parliament when creating the offence.

It is important to note that the Court relied upon the totality of the 5 considerations above, rather than that any one of them alone were sufficient. The effect of the Court's judgment is to focus on the need for the relevant item or article to be worn, carried or displayed in such a way or in such circumstances as to arouse the requisite reasonable suspicion. The Court found that the wearer must know that they are doing so and, therefore, a person who has such an item unwittingly placed upon them, such as where an image is attached to a person's back-pack unbeknown to them (see [50]), would not be liable under section 13(1).

In focusing upon reasonable suspicion in this case, the Court indicated the following were of significance: – Whether the accused has an innocent explanation; – Whether other people would reasonably form that suspicion –in this case there was expert evidence that the majority of observers would have recognised the flags as those of the PKK and that this had been designated as a terrorist organisation; – Where the accused's expression is stated to be for a non-proscribed organisation, whether this expression could have been carried out without wearing the item or article that gives rise to the reasonable suspicion. Nathan Davis, Park Square Baristers

Whatever Happened to Investigative Journalism?

Euan Mcilvride MOJO Soctland: There was a time when journalism in this country held a mirror up to the criminal justice system, and exposed its flaws. I thought it necessary to begin with that simple statement, because to those under 40 this is likely to be something of which they have no personal experience. There was a time, decades ago, when we could look to the print and broadcast media for accurate, critical, reportage of what was being done in our name. Truth was spoken unto power.

That many of the most egregious miscarriages of justice were recognised and – in some cases – corrected is due, in substantial part, to the principled, fearless journalism of the receding past. There was Granada Television's Who Bombed Birmingham? and the journalism of Chris Mullin on the Birmingham Six, and the journalism of Gavin Essler, Chris Mullin and David McKittrick on the Guildford Four. Then there was the work of David Jessel with Rough Justice (BBC) and, later, Trial and Error (Channel 4), on numerous cases including the Bridgewater Four. There was the journalism of Paul Foot in Private Eye on the Lockerbie fiasco, and, of course, there were the tireless efforts of Ludovic Kennedy, over many years, on such major injustices as Derek Bentley and Paddy Meehan. These were shining examples of a type and standard of effective, important journalism that is now notable only by its absence.

This matters. It matters because, in the absence of similar scrutiny by contemporary journalism, the vital protection that this work provided is being lost. It matters because, in consequence, innocents are subjected to horrific, lifelong ordeals. Some die.

In the five-year period 2014 – 2018 the Scottish High Court of Justiciary Criminal Appeal Court quashed 98 convictions arising from solemn (jury) trials. Each was recognised, by the court, as a miscarriage of justice. Statistics can, of course, be interpreted in different ways. Some may see this as evidence of the efficient working of a safeguard against those instances of wrongful conviction that do, inevitably, arise. If that is your view, then please consider this: the figures, on any analysis, illustrate an alarming incidence of wrongful conviction. And

when you consider that, of these successful appeals, only four were on referral from the Scottish Criminal Cases Review Commission – a body whose very existence is due, in large measure, to the work of the aforesaid journalists – other interesting questions arise. For it was in the cases that are now in the remit of the SCCRC, cases that had been unsuccessful at earlier appeals, that the benefit of the journalists' work was keenly felt. Their absence today is reflected in the pitiful, and diminishing, rate of correction of the most troubling injustices.

There is a worrying lack of attention, these days, to the existence of this problem, never mind its true extent. Of the cases which these statistics reflect, what, if anything, do you know? Of the lives blighted, what have you heard? Every miscarriage of justice is a failure of the system that should protect us and keep us safe. The system that founds our democracy. We should know of these things. We should want to know of these things.

Our system of criminal justice is being warped beyond recognition. Justice itself is being redefined. It now exists only in the securing of convictions. An acquittal is regarded, these days, as a failure, and a denial, of justice. By legislative and executive fiat, justice is bent to the will of the "victim". No rational person would wish to deny justice to the victims of crime. No rational person would wish to see the perpetrators of crime evade justice. And no rational person would criticise a criminal justice system that strives to serve these ends. But what we have is a system that strives only to serve a perception, and that isn't the same thing. And the difference is a very dangerous one. Because "our" system strives to serve the perception of justice at the cost of actual justice.

Where a complainer of crime is deemed to be a victim of crime, the fundamental and essential balance in our justice process is skewed. An unfair advantage is handed to prosecution, with a corresponding disadvantage to defence. Determining whether a complainer of crime is, in fact, a victim of crime is one of the basic functions of our trial process. It is to be resolved by the leading, and testing, of evidence. For and against. Where this fundamental question, of all questions, is pre-judged then what is the actual value of a notional presumption of innocence? Where the requirement of corroboration – another of our fundamental protections – is eroded, systematically, over decades so as to be almost meaningless, what is the actual value of a notional presumption of innocence?

These are questions that a healthy and engaged press might be expected to ask. They might also ask whether a criminal justice system that values the fact of a conviction over the legitimacy of that conviction, a criminal justice system that, in the blind pursuit of higher conviction rates as an end in itself, hobbles the ability of an accused to defend himself, and that claims to do so in the interests of victims, is truly the guardian of our protection and safety or, indeed, of our democracy.

They might but, perplexingly, they don't. The Scottish Government recently proposed to dispense with juries in the trial of serious crime. A more brazen assault on justice it would be difficult to imagine. And yet the backlash, swift as it was, came only from the lawyers. Where was the fourth estate? Reporting, as it happens, on the backlash, not the proposal. In what must be a new low for journalistic standards, I heard one BBC Scotland reporter suggest that this astonishing proposal was actually in the interests of those accused of serious crime. It is simply inconceivable that this would have been the response even twenty years ago.

A press that reports, but does not question, the continuous and continuing erosion of the rights of the accused is, surely, complicit in a process that has, as its product, the abandonment of justice. Who wins, other than the true criminal, when the wrong person is convicted of a crime? Who gets justice? Who wins when someone is convicted of a crime that never happened? We are creating, by design, a different class of victim. A class of victim whose interests, ironically, the state is in no hurry to protect.

CCRC Rejects Application Written By Former Appeal Judge

Jon Robins, Justice Gap: The miscarriage of justice watchdog has rejected an application authored by a Court of Appeal judge arguing that the case raised issues appropriate for the Supreme Court 'if necessary'. As has been reported previously (see below), Sir Henry Brooke had been helping the family of a man who claims to have been wrongly convicted of false sexual allegations made by a 16-year old girl with a history of mental instability. The man's family has shared the reasons provided by the Criminal Cases Review Commission (CCRC) with the Justice Gap and Private Eye which this week featured the case described by Sir Henry 'extremely worrying' (see Dog with no bite). The celebrated judge, who died in January 2018, had written a 25-page application to the miscarriage of justice watchdog on behalf of the man who had been sentenced at Liverpool Crown Court in July, 2014.

It has taken the watchdog close to three years for the CCRC to reject the case. The man referred to here as John Smith for legal reasons, now 68 years old, is currently serving a 15 year sentence at HMP Wymott, Preston as a result of allegations of rape and sexual assault made by a 16 year old girl who has a history of mental instability. Four years ago the man's wife wrote an open letter to the then prime minister David Cameron. The letter was published in the prisoners' newspaper Inside Times and the Justice Gap in April 2016. 'We have been sacrificed,' the letter began. 'Our lives stolen and our whole family put into trauma. We brought up our family to be kind, caring, human beings and to have morals and to trust in the police and justice system. We were so wrong. The first time me and my family ever needed the police to protect us, they completely destroyed us, without a second thought or care for the lifelong consequences.' The man's wife, Sharon (not her real name) told the Justice Gap that the family was devastated by the CCRC's decision. 'It's outrageous that they can put a family through and not be accountable for trauma created by all this wait. It doesn't take almost three years to make a decision like this.'

Sir Henry, who died at the age of 81 years in January 2018, was (in the words of one obituary) well-known for his 'lifelong belief in the importance of doing the right thing'. According to Sharon, the letter had been written 'out of sheer desperation' and shortly after it appeared on the Justice Gap, it appeared on Sir Henry's website (here). After the former vice-president of the Court of Appeal was contacted by the man's wife, he offered to take a look at the papers. Sir Henry became so convicted of the man's innocence that he wrote the application to the CCRC calling on group to take another look at what he called 'an extremely worrying case'. His application dated April 24, 2017 began: 'These submissions have been prepared for XXX by a retired Court of Appeal judge who does not wish any publicity to be given to his involvement in the matter.' Sir Henry went on to say that he would be 'willing to disclose his identity in confidence to the CCRC if the CCRC considers this to be necessary'.

Fit for the Supreme Court: According to the former lord justice of appeal, it was 'more important than ever that the CCRC and the Court of Appeal should be willing to intervene if a defendant can be shown to have been badly let down by one or more of his lawyers to the extent that he did not have a fair trial'. 'For these reasons the issues raised by this case are, indeed, fit for the consideration of the UK Supreme Court, if necessary,' he added. Nine months after the application arrived at the CCRC's Birmingham offices, Sir Henry went in for a cardiac operation which he didn't survive. In his application, Sir Henry explains why the court's treatment of historic sexual abuse allegations can lead to miscarriages of justice and recommended that the case, which has been rejected by the Court of Appeal and knocked back twice by the CCRC, should be considered by the highest court in the land.

Sir Henry argued that the man had been badly let down by an incompetent lawyer who failed to properly prepare his defence which left the jury with 'a wholly one-sided picture'. The solicitor failed to present evidence to the court of the 16-year-old accuser's mental health problems and the long history of mental instability which affected her grandmother, great-aunt and aunt. Sir Henry listed

all the evidence including correspondence with lawyers, witness statements, transcripts of hearings, notes from police interviews with the accuser and the accused, disclosure reports as well correspondence with the Criminal Injuries Compensation Authority. Critically, he also read documents relating to the girl's mental health including her CAMHS (Child and Adolescent Mental Health Service) report. The jury never got to hear that she was referred to a residential centre which specialises in young people with complex mental health disorders after threatening to throw herself in front of a train. It was when she was there as an inpatient for a number of months that she made (as Sir Henry noted) 'a number of different allegations about the way she been abused not only by XXXX but also by other men'.

The CCRC has faced some criticism for a recent policy of shortening the documents known as 'statements of reason' rejecting cases. Previously such documents used to be botching if not substantial, however the CCRC dismissing Sir Henry's 25-page application features an 'analysis' that covers three sides of A4 and asserts 'no criticism can properly be made of the tactical decisions' made by the man's lawyers. 'The CCRC appears to have completely ignored the fact that had the jury heard all the facts they may well have reached a different decision,' comments Glyn Maddocks QC who represents the man's family. 'The truth will simply remain buried and justice will yet agin not be served.' 'The most depressing thing – apart from the actual decision – is that the CCRC appears to have taken nearly three years to turn down the application, and to have done very little additional investigation in that time,' says the barrister Matthew Scott who has also been advising the family. 'In particular, they have done nothing to investigate Sir Henry's number one point, that the complainant's mental health problems – which the judge allowed the jury to assume might have been caused by the alleged sexual abuse – were in fact shared by other members of her family, and thus might well have been genetic in origin.'

Sharon has not seen her husband since February 23rd. 'We decided that visiting was a bad idea for all of us because of coronavirus and it's more important to keep everyone safe,' she told the Justice Gap. 'So I cancelled all the visits I had booked for everyone until all this was over. Prisons are not very clean, they're unhygienic & overcrowded & breeding grounds for viruses and illnesses.' Her husband's wing was put on lockdown for 14 days at the beginning of the month after a prisoner was tested positive. 'We are all worried sick,' she said. 'He is pretty fit and well so we are all hoping & praying he will not contract it. I didn't think things could get any worse and then this happens.'

Obina Ezeoke to Face Fifth Trial Over Same Murder Charges

An Old Bailey judge has ruled that a man can go on trial on the same murder charges for a fifth time. Obina Ezeoke is accused of shooting dead a 53-year-old woman and her nephew at a flat in north London. Mr Ezeoke, 27, At the original trial it was alleged Mr Ezeoke, crept through the unlocked door of their flat with a vintage revolver and shot 21-year-old student Bervil Kalikaka-Ekofo in the back of his head in what the prosecution said was a 'vendetta of violence'. Ezeoko is then accused of turning his gun on the young man's aunt Annie Besala Ekofo, 53, and blasting in the chest when she came out of her bedroom to investigate the noise. The first trial, in 2017, was abandoned after the judge became ill. Juries at two subsequent trials, in 2018 and 2019, were unable to reach verdicts. At the fourth trial, which began in February, the jury was discharged after they had started deliberations but before agreeing verdicts. Mr Justice William Davis said: "The discharge was required once the number of jurors fell below nine. "This occurred against the background of the Covid-19 epidemic," he added. The judge said the prosecution had then applied for a fifth trial and he had granted its request, following a hearing on Monday. Mr Justice Davis set out his reasons for granting the trial in a 31-paragraph ruling. The details cannot be revealed until after the next trial - expected to be held this Autumn - has finished.

Overcoming the Cops in our Heads - Corona Does Not Give a Fuck Who You Are!

'The virus doesn't care if you're an officer or a prisoner. If a prisoner has it today, the officers will have it tomorrow and the officer's family will have it the day after that.' David Fathi, Director of the ACLU National Prison Project, is surely correct. Coronavirus poses a dreadful threat to prisoners. But prison staff can hardly be insulated from its effects. This was one of the main points I sought to make this week in an interview with The Guardian. Inaction by government on coronavirus is not just putting prisoners' lives at risk but also prison staff, and the general public. If you were to set out to create an institution with the express intent of concentrating and transmitting Covid-19, it would probably look much like a prison.

If we are to combat the spread of coronavirus in prisons, we need to learn the lessons from other prison-based epidemics. As Anton Shelupanov points out, the parallels between coronavirus and the 1990s resurgence of tuberculosis in prisons are clear. 'Like tuberculosis,' he writes, 'Covid-19 thrives in overcrowded unhygienic conditions, of which prisons are often a prime example.' Part of the solution involves reducing the flow into prisons - reducing the use of remand for instance - while accelerating the release out of prisons, including through the much talked about, but currently disgracefully slow, early release programmes.

The apparent inability of the government to take decisive action to reduce the risk of infection among prisoners and prison staff says much about the enduring hold prisons exert on us and our sense of what is possible. These 'cops in our own heads', Charlie Weinberg argues here, means that we can allow ourselves to imagine prison releases, 'only under certain circumstances, for some people and as a "temporary" or "emergency" measure. In this way, we sustain a superficial attitude to what the same "cops" reinforce as being our punitive nature, rather than considering the fact that punishment is not a useful way to contain harm'.

But what if we were to overcome the cops in our own heads? What if we were to release thousands of prisoners in a managed way, to help reduce the threat of coronavirus infection, and the sky doesn't fall in, what then? Then we could start thinking about who we imprison and why, and consider different ways to sanction people. Some will always need to be contained, but prisons at the moment are a 19th-century solution to a twenty-first century problem.

As my colleague Matt Ford points out, 'Close prisons and redevelop the land to address racial inequalities laid bare by COVID-19'. We could then start thinking about closing prisons down, rather than filling them back up, and redeveloping the land they occupy in a way that benefits the communities around them. There is always a better use for a piece of land than as a place for a prison.

Last week, the government announced a review into emerging evidence that people from black and minority ethnic backgrounds have been disproportionately affected by the coronavirus outbreak A report by the Intensive Care National Audit and Research Centre found that a third of people critically ill with COVID-19 were black and minority ethnic, compared to 18 per cent in the wider UK population.

Serving Prisoners Supported by MOJUK: Walid Habib, 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, Hyrone Hart, 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.