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Ministers to Give Magistrates in England and Wales More Sentencing Powers

Rajeev Syal , Guardian: Exclusive: Plan to cut backlogs by doubling maximum term from six to 12 months was tried before by Tories - Ministers will announce plans within days to give magistrates in England and Wales fresh powers to hand down longer custodial sentences to help reduce the backlog in crown courts and prisons, the Guardian understands. The development will allow magistrates to try more serious crimes, and double the maximum punishments handed out for an offence from six to 12 months. The proposal could also reduce the number of prisoners awaiting trial in prison, known as "on remand", Whitehall insiders said. In June, there was a record 17,000 prisoners on remand in England and Wales, a fifth of the prison population.

However, the latest move to give magistrates greater powers is expected to result in a backlash from barristers, who have warned that it would be a "kneejerk reaction" that would "simply make things worse" for overcrowded prisons. Doubling the jail terms that magistrates can impose, from the current maximum of six months, would enable them to try more serious offences, including theft, fraud, assault, drug dealing and possession of weapons. Giving magistrates further sentencing powers was tried before by the then justice secretary Dominic Raab, who doubled jail sentences in 2022. The scheme was dropped after a year. Critics claimed that magistrates increased the numbers of people serving short sentences, increasing pressure on overcrowded prisons.

Government insiders have said that, this time, the prison population is expected to initially increase. But allowing magistrates to hear more complex cases would mean that, eventually, the number of remand prisoners would decrease, as crown courts would be freed up to hear more cases, a source said. "Modelling shows that there may be a short-term increase in the prison population. But in the mid- to long term, the overall population will drop because the number of remand prisoners will fall away," a Whitehall source said. A record 17,070 prisoners were on remand at the end of June, up from just 9,000 five years ago, official figures show. Some have spent so long on remand that, if convicted, they could be released immediately or within months as the time already served in prison counts towards their sentence. After a report in the Daily Telegraph last month that ministers were considering giving magistrates extra powers, the chair of the Criminal Bar Association, Mary Prior KC, said any such changes would "make things worse" by increasing the pressure on prisons, which were already near capacity. "This is a kneejerk reaction, done without consulting – once again – the criminal barristers or solicitors who deal every day with these cases," she said. Under the SDS40 scheme, an estimated 2,000 prisoners serving sentences of less than five years were released on 10 September. On 22 October, a further 1,700, who are serving sentences of more than five years, will be released. After last month's early releases, the government had to defend the scheme after a former inmate, Amari Ward, 31, was charged with sexually assaulting a woman on the day he was freed. Ward was one of 37 prisoners who had been wrongly released because offences had been inaccurately recorded. All 37 had breached restraining orders, which should have disqualified them from the early release scheme. It then emerged that many released prisoners had not been fitted with electronic devices, despite this being a condition of their release. Serco, the outsourcing company that manages the tagging system, has since been blamed by ministers for failing to fit enough tags.

Can You Apply to Reopen a Final Determination of the Court of Appeal?

There is only one right of appeal to the Court of Appeal (Criminal Division). If you have exhausted that right and the Court's decision is final. It is only in very rare circumstances that the Court will reopen a final determination, because its power to do so is very limited. If you think you have been a victim of a miscarriage of justice, you should contact the Criminal Cases Review Commission (CCRC) and ask them to investigate your case (conviction or sentence) and to refer your case back to the Court using their statutory powers. Their address is 23 Stephenson Street, Birmingham, 82 48H (Phone 0121 233 1473). You can also obtain the relevant form from the CCRC's own website at www.ccrc.gov.uk

The Court will refuse to reopen a final determinations where an application can be made to the Criminal Cases Review Commission because this provides an effective Alternative Remedy. In R v Field [2022] EWCA Crim 316 the Court confirmed that the jurisdiction to reopen a final determination is extremely limited and that the jurisdiction can only be exercised in exceptional circumstances. Mere disagreement with the reasoning and conclusion of an appellate decision gives no basis whatsoever for such an application. It is inappropriate and wrong to make such an application on that basis and to do so amounts to an abuse of the process of the Court.

If you do not have an alternative effective remedy, and the circumstances are exceptional, you can apply for final determination to be reopened under Rule 36.15 of the Criminal Procedure Rule. In order to make this application, the Rules (Crim PR 36.15) state that you must: (1) Specify the decision which you want the Court to reopen; and (2) Explain: (3) Why it is necessary for the Court to reopen that decision in order to avoid real injustice, (4) How the circumstances are exceptional and make it appropriate to reopen the decision notwithstanding the rights and interests of other participants and the importance of finality, (5) Why there is no alternative effective remedy among any potentially available, (including why you cannot apply to the CCRC) and (6) Any delay in making the application.

If you wish to pursue the application, you should address all of the above without delay by completing the appropriate form. If you fail to address the above matters, the Registrar will be unable to consider it an effective application.

Warning: In R v Cunningham; R v Di Stefano, [2019} EWCA Crim 2101i, the Court confirmed the Court's power under section 29 of the Criminal Appeal Act 1968 to make a "loss of time order" where it considers that an application to reopen a final determination is totally unmeritorious. This is an order that some or all of the time spent in custody as an applicant shall not count towards the sentence.

Source: HM Courts & Tribunal Service

How Should a Judge Approach a Submission of 'No Case to Answer'?

(1) If there is no evidence that the crime alleged has been committed by the defendant, there is no difficulty. The judge will of course stop the case.

(2) The difficulty arises where there is some evidence but it is of a tenuous character, for example because of inherent weakness or vagueness or because it is inconsistent with other evidence.

(a) Where the judge comes to the conclusion that the Crown's evidence, taken at its highest, is such that a jury properly directed could not properly convict on it, it is his duty, on a submission being made, to stop the case. (b) Where however the Crown's evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability, or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence on which a jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury."

Prison Staff Had No 'Meaningful Interaction' With Vulnerable Prisoner

Claudia Eco, Justice Gap: An investigation by the Prison and Probation Ombudsman was 'very concerned' that staff at HMP Wandsworth had no 'meaningful interaction' with a prisoner prior to his self-inflicted death in 2021. Przemyslaw Wozniak, facing extradition to Poland, was taken to Wandsworth on 23 December 2019. An initial welfare check concluded that he had no enduring mental health problems, despite telling the nurse he had difficulty sleeping, and was hearing voices saying "hate you". He later told his key worker during the pandemic that he was 'depressed' in the face of his deportation, but this was excluded from the worker's report. Mr. Wozniak was only seen by the mental health team on his seventh self-referral, in February 2021. He was visited by a prison GP on who gave him a prescription for sinusitis but failed to ask him about his mood. Mr. Wozniak was found hanging in his cell five days later, with attending officers raising a general alarm rather than an emergency 'code blue'. The proper code was not raised for another three minutes, and upon the ambulance's arrival Mr. Wozniak was unable to be revived.

The report stated: 'We are very concerned that there is no evidence that staff checked Mr Wozniak's welfare or had any meaningful interactions with him during the 11 months before his death,' also noting that 'the doctor's failure to ask Mr Wozniak directly about his mood or to actively assess his mood that day did not meet even the most basic of clinical guidance in relation to identifying depression.' The Ombudsman issued an Action Plan in response to the death, recommending that healthcare staff share information about at-risk prisoners with prison staff, the use of interpretation services with prisoners with limited English, having 'regular, meaningful conversations' with prisoners to assess wellbeing, and calling the appropriate medical code in emergencies. Mr. Wozniak was the fourth prisoner at Wandsworth to commit suicide since 2019. Five further self-inflicted deaths have followed. HMP Wandsworth's received a 'damning report' last spring, accompanied by the issue of an urgent notification.

Australia's Northern Territory Resumes Jailing 10-Year-Old - Ethnic Aboriginals

Children as young as 10 will soon be able to be jailed once again in Australia's Northern Territory (NT), after the government there lowered the age of criminal responsibility. Australian states and territories have been under pressure to raise the age of criminal responsibility from 10 to 14, in line with other developed countries and UN advice. Last year the NT became the first jurisdiction to lift it to 12, but the new Country Liberal Party government elected in August has said a reversal is necessary to reduce youth crime rates.

It has argued that returning the age to 10 will ultimately protect children - despite doctors, human rights organisations and Indigenous groups disputing that logic. They say the research indicates the laws will not reduce crime and will disproportionately affect Aboriginal and Torres Strait Islander children. The NT already jails children at a rate 11 times higher than any other jurisdiction in the country, and almost all of them are Aboriginal, external.

The territory's new government says it has a mandate after an overwhelming election victory following a campaign that promised being tough on crime. It argues being able to criminalise children younger will help divert them away from future crime. Many places across Australia have declared they are in the grips of a youth crime crisis, and a string of violent incidents this year have prompted a series of youth curfews in the NT city of Alice Springs.

Chief Minister Lia Finocchiaro said her government had been given a mandate by voters to act and that the change would allow courts to "intervene" in the lives of young offenders and put them through programmes designed to address the root causes of their crimes. "We

took to the election a very clear plan around lowering the age of criminal responsibility so that we can capture these young people early, work out what's going on, and turn their life around," she said on Monday. The NT government will also tighten bail rules. "We make no apologies for delivering on our election commitment to make the territory safe."

However, research both globally and in Australia has shown that incarcerating children makes them more likely to reoffend and often has dire impacts on their health, education, and employment. Earlier this year a report by the Australian Human Rights Commission - an independent federal agency - found policy was being driven "by populist 'tough on crime' rhetoric" and that governments should instead reinvest the money spent on jailing children into support services. As the NT parliament debated the bill on Wednesday 16th October, around 100 people gathered outside to protest, some carrying placards. One read, "10-year-olds still have baby teeth". Another said, "What if it was your child?".

The NT's Children's Commissioner Shahleena Musk, a Larrakia woman from Darwin, told the BBC that there was "structural racism at force in the Northern Territory youth justice system". She said Aboriginal children are less likely to be cautioned, more likely to be charged and pursued through the courts, and more likely to be remanded in custody than non-Aboriginal offenders. "I accept that people are fearful in our communities, and crime has been quite prominent in the media and social media. But if we rely on the evidence and start to work to address the root causes of crime, we're going to have less of these kids reoffending... We shouldn't be seeing these kids going into a youth justice system which is harmful, ineffective, and only compounds the very issues we're trying to change."

Advocates also fear the laws could arrest momentum for raising the minimum age of criminal responsibility in other states and territories. Only the Australian Capital Territory has raised the age of criminal responsibility above 10, but Victoria has passed legislation to do so, which will come into effect next year. The Tasmanian government has said it will raise the age to 14 by 2029.

INQUEST: Response to Highest Number of Deaths in & Following Police Custody For 17 Years

Official statistics published 17th October reveal the highest number of deaths in and following police custody recorded for 17 years. The latest annual data from the Independent Office for Police Conduct (IOPC) covering 2023/4 shows 24 deaths in or following police custody. There was an increase of 1 death from the previous year. Of those who died, all but one were men. Fourteen of these 24 people had some use of force against them by the police before their deaths. Three of these included Taser discharge. Of the 24 people who died, 19 had mental health issues, with one having been detained under the Mental Health Act, and 21 had links to drugs and/or alcohol.

The IOPC distinguish between deaths in and following police custody, and other deaths following police contact. In addition to deaths in and following police custody, there were: 2 fatal police shootings - 29 road traffic fatalities, of which 24 were police pursuit cases - 68 apparent suicides following police custody - 60 other deaths following police contact, eight of these involved restraint or other use of force by police.

Behind the statistics are those who died at the hands of the police. In the year 2023/24, those that died included: Giedrius Vasiljevas, a 40-year-old Lithuanian national, died after he was shot by a Metropolitan Police Service (MPS) officer on 23 November 2023 after threatening to take his own life. Daniel Cooper, 40, died on 14 July 2023 after being found unresponsive in his cell in Hammersmith and Fulham police station. He had been arrested two days earlier.

Deborah Coles, Director at INQUEST, said: "No one should by dying at the hands of police. Yet

every year, more people are dying in and following police custody. Inquests and investigations uncover issues of disproportionate use of force, and neglect of people in need of care not custody. Yet police continue to fail to enact learning. The fact that the majority of these deaths relate to mental ill health and drugs and alcohol reiterate the urgent need for a community health and not a policing response. Ultimately to prevent further deaths and harm, we must look beyond policing and redirect resources into community, health, welfare and specialist drug and alcohol services."

UK Looks to Texas for Prison Solutions

But is it looking through rose-coloured glasses? As the UK looks to Texas for solutions to its prison woes, I worry that the Texas reforms are not being portrayed accurately and that the picture being presented of Texas is overly rosy. I say this not only as a long-time observer of the Texas prison system, but as the former policy director of Texas's sentencing commission in the early 1990s and as a criminal justice policy advisor to Texas legislators in the decades since.

First, some context: Texas has the largest state prison system in the US, with about 130,000 people in prison. That doesn't count people in local jails (equivalent of remand facilities) - about 70,000 more. Our incarceration rate is 751/100,000, way higher than the UK. No question - Texas overly relies on incarceration and is very punitive. We have not solved our prison issues. Texas did make some important reforms that reduced its prison population from about 152,000 in 2007, and that allowed the state to close several prisons. Until that time, Texas prison growth was a runaway train. Those reforms are worth looking at as the UK deals with its current prison crisis. In 2007, state leaders recognised that Texas could not build its way out of its prison population pressures. Texas had already tripled the size of its prison system in the 1990s, but once again was facing a projected need for 17,000 more beds. But prison construction and operations were incredibly expensive, and that approach wasn't working to address public safety concerns, as high recidivism rates showed. Legislators came to realise that unfettered prison construction made us poorer, not safer. So they looked for other strategies.

The reforms Texas implemented primarily consisted of 3 approaches: Invest much more money in local community-based treatment programs and services and more effective community supervision, to keep people out of prison in the first place; Reduce use of revocations (recalls) to prison for 'technical' violations of probation and parole conditions (these revocations were a huge driver of the prison population), and Invest more money in programs and services and in re-entry initiatives within prisons, with the goal of reducing recidivism.

The limits of the 'good time' scheme - Much of the UK media's reporting about Texas reforms has focused on the use of 'good time' to reduce sentences. To be clear, Texas has had 'good time' in place for a very long time, as do most US states. This was not part of the 2007 reforms. 'Good time' is a 'carrot and stick' tool to incentivise participation in programs and to disincentivise misconduct. As I said to The Times: the good time scheme [is] necessary but not sufficient by itself. You need the rehabilitative programs and other strategies to decrease the population. There are two - and only two - things that affect the size of the prison population: how many people are coming in the front door and how long they stay there. If you want to reduce the size of the population, you have to address both of those things.

'Good time' doesn't have anything to do with how many people come into prison, and, in Texas, it is no guarantee that someone will be released early from prison. It makes someone eligible earlier for discretionary parole consideration, but that doesn't mean they will get out. 'Good time' is also not an indication that a person has been rehabilitated. It is primarily a tool to help manage the behaviour of people in prison, because if they get into trouble or don't

go to work or participate in programs, it takes longer to be considered by the Parole Board. So 'good time' will not solve the UK's prison over-population problems. It is helpful, because it might reduce length of stay, but that can't be the main approach to depopulation.

The need for rehabilitation: Contrary to some of what is being reported, Texas did not shift to a discernibly rehabilitative approach inside prisons. While there are the usual treatment programs/ education/ vocational training (and even some pockets of innovation), many incarcerated people can't access those programs because of waiting lists or eligibility requirements, or because they are in restricted housing. Additionally, programs are typically offered only at the tail end of a sentence. Recidivism rates in Texas are still very high, mostly because nothing is being done to address the root causes of criminal behaviour or addiction. Also, recidivism rates remain high because prison conditions are still very punitive and traumatising. If the UK wants to see prisons that have truly shifted their culture to be more rehabilitative and that get better recidivism results, it should look to Norway and other Scandinavian countries. There are some promising examples in the US, too, such as the Restoring Promise units (Connecticut, South Carolina, Colorado, North Dakota, and Massachusetts); Little Scandinavia (Pennsylvania); and Amend (Washington, Oregon, California, and North Dakota).

While Texas's prison population went down significantly in the years following the 2007 reforms, the numbers did not continue to fall (except during COVID, for unrelated reasons). The population has risen again and is unlikely to fall again without new measures. Indeed, a new report from a Texas legislative agency just found that the prisons will run out of space within a year and are projected to have 7000 more incarcerated people than operating capacity. Thus, Texas appears headed towards a potential prison population crisis once again.

The way forward:So, what has Texas not done that it should do, in addition to the 2007 reforms, if it really wants to reduce its prison population? (And what should the UK consider doing, too?). First, it needs to shorten length of stay, beyond use of 'good time'. How? Reduce the length of sentences (Texas is extreme on this front); Expand use of compassionate release, especially for older people who are past their crime-prone years and for people with medical needs; Design thoughtful and safe early release measures that consider a person's current risk rather than the original offense, and provide a 'second look' for people with extreme sentences to see if continued incarceration is necessary; For people within a short period of release, consider providing additional 'good time' to get them out of prison a few weeks or months early. It won't affect public safety, but it will save beds and money; and Mandate that when the time a person serves plus the good time they earn equals the length of their sentence, they must be released (right now, that release decision is still discretionary with the parole board, which makes good time less meaningful than it could be).

Next, we need to reduce the incarceration of women, who present a lower risk to the community and who are mostly in prison for untreated trauma. Prison is not addressing their needs. We also need to significantly reduce use of pre-trial detention (called 'remand' in UK). None of Texas's 2007 reforms focused on our local jails, which are overflowing. In short: Texas has done some good things to bring down its prison population, and those approaches deserve attention by UK leaders. But we have not done nearly enough, and there are some misunderstandings about the reforms that were made to get to this point. Texas is a complex place, and its criminal justice system reflects a mixture of troubling conditions and policies and some positive innovations. If the UK plans to look to Texas as a model, it needs to be clear which are the policies worth emulating, and which are examples of what not to do. And it needs to take off the rose-coloured glasses that are showing Texas in a light that makes it unrecognizable to those of us who live in the state. Michele Deitch, Centre for Crime and Justice Studies:

Support for Children of Prisoners

Mr Richard Holden: To ask the Secretary of State for Justice, what steps she is taking to ensure that the children of those imprisoned are (a) identified and (b) offered support.

Sir Nicholas Dakin: The Government recently published the first official statistics to estimate the number of children affected by parental imprisonment using administrative government data. It's estimated that between 1 October 2021 and 1 October 2022 there were around 193,000 children with a parent in prison. We fully recognise the importance of being able to identify children with a parent in prison to make sure they receive the support they need to flourish and thrive, which is why a commitment on this was included in our manifesto. The Ministry of Justice is working closely with the Department for Education to determine how to effectively identify these children and provide support for both them and for the parent in prison. The support will be informed by lessons from previous interventions and pilots, and engagement both with those with lived experience and organisations from the Voluntary, Charity and Social Enterprise sector.

Tears and Torture: Venezuela's Teenagers Face Brutal Justice for Protesting Rigged Election

In the aftermath of this summer's protests against the regime of Nicolás Maduro, dozens of teenagers were rounded up and jailed. They remain behind bars, despite warnings from the Organization of American States that their rights are being violated.The three teenagers wept as Judge Keidimar Ramos Castillo laid out their only two options: plead guilty to terrorism and incitement and face six years in prison, or stand trial and risk a decade behind bars, where they have already been beaten, tortured, and deprived of food and medication. Their shocked mothers watched the cold, mechanical process in silence. They had expected their children to be released during the Oct. 2 hearing, like 86 other teenagers were shortly after being detained for protesting alongside thousands of other Venezuelans against Nicolás Maduro's declared victory in the July 28 election, which most of the world viewed as rigged. When the judge finished, the three teens, aged 15 to 17, began to plead for mercy, screaming and sobbing as they assured the court they were not guilty. The stunned mothers also burst into tears. The judge didn't even blink. The teens were marched out of the courtroom and back to their cells.

Over the past few weeks, hearings like this for about 50 teenagers have taken place throughout the country, mostly conducted online. Often, the judge and the lawyers were in one city, the teens in another, and the parents in a third, seeing their sons and daughters only as pixelated images on a screen. After compiling school records, letters of good conduct, and personal references — files that could help prove their children's innocence — the mothers say the judges didn't even look at them. Instead, their children were marched off to trial, denied the right to private lawyers, and left with public defenders who did little more than stand beside them in court.'Shockingly Brutal' Reports indicate that 24 people were killed in the massive protests that erupted when the electoral commission, controlled by Maduro loyalists, declared him the winner just hours after the polls closed, without releasing the voting tallies. What followed was a brutal government crackdown against opponents, which Human Rights Watch described as "widespread human rights violations against protesters, bystanders, opposition leaders, and critics," including killings and arbitrary detentions and prosecutions. "The repression we are seeing in Venezuela is shockingly brutal," said Juanita Goebertus, Americas director at Human Rights Watch, in the press release. According to Venezuelan authorities, over 2,400 people were arrested in connection with the protests. Most remain detained in Venezuelan prisons, where basic human needs — like a place to sleep or access to a restroom — come at a price. Families are forced to pay bribes to ensure their loved ones get food or medical care. Hammocks in the cells cost $5 to use, an impossible sum for many. Mothers must pay for their children to receive medicine, or the medication will "disappear" before it reaches them. Since the end of July, the parents have been able to see their children once or twice.

Parliamentary Inquiry Into Controversial Joint Enterprise Law to Begin Work

Jon Robins, Justice Gap: A parliamentary inquiry into the controversial law around joint enterprise is to begin work next month. The Westminster Commission for Joint Enterprise is to be launched at an event in the House of Commons and will be the first major project of the newly-formed All-Parliamentary Group on Miscarriages of Justice headed by the Labour MP Kim Johnson MP as the new chair. New members of the APPG include the former Solicitor-General and Tory peer Lord Edward Garnier, the new chair of the House of Commons's justice committee Andy Slaughter and Liz Saville-Roberts, Plaid Cymru's Westminster lead. Full list below.

The Westminster Commission on Joint Enterprise is to be headed up by the Labour peer and the former joint general secretary of Unite Lord Tony Woodley, together with academics Dr Louise Hewitt, a law lecturer at Greenwich University and founder of the Innocent Project London, and Dr Bharat Malkani, a law lecturer and specialist is race and justice. The commissioners will be announced shortly. *'The Westminster Commission is seeking to ensure that this critical issue remains at the forefront of our government's agenda. Our launch event in Parliament on Tuesday 12th November will establish what our next steps are in the fight for justice,'* commented Kim Johnson.

The new inquiry will build on previous work by the APPG. Earlier this year, Kim Johnson sought an amendment to the Criminal Justice Bill to tighten up the law so as only those who make a 'significant contribution' would be held criminally liable. 'Joint enterprise continues to have far-reaching consequences for individuals, their families, and their communities,' the Liverpool Riverside MP said. 'The unjust outcomes for those who may have had little to no involvement in the crime they are convicted of must be resolved. This is equally true for individuals wrongly convicted of crimes, as in the recent devastating case of Oliver Campbell, as well as the many failings of the Court of Appeal and the CCRC.' 'This is a deeply personal issue for me and following the positive response of my Private Member's Bill from colleagues across the political spectrum, there is a huge opportunity for us to hold the government accountable for previous comments on reform. Joint enterprise law must reflect justice, not disproportionate punishment and the increasing criminalisation of Black young men and children and white working-class boys. Through this Westminster Commission, we aim to push for reform, raise awareness, and work toward a legal system that truly serves justice.' Kim Johnson MP

All APPGs come to an end with the election of a new government and the immediate past chairs of the APPG on Miscarriages of Justice, Barry Sheerman MP and Sir Bob Neill, both stood down from Parliament. The pair set up the APPG in 2017 following the collapse in the number of referrals by the CCRC to the Court of Appeal. The new APPG had its inaugural meeting this week and has 27 members so far. The Westminster Commission on Joint Enterprise will be the third parliamentary investigation by the APPG. Its first – the Westminster Commission on Miscarriages of Justice – focussed on the concerns over the CCRC and its recommendation for a Law Commission review of the system of criminal appeals was accepted by the Government. The author of that report, Lord Edward Garnier, will be joining the re-established APPG as its co-vice chair. Garnier, a former solicitor-general, recently called for reform of the CCRC in a debate in the House of Lords saying it 'unquestionably' needed new leadership. 'If the chair and the chief executive will not resign immediately, they should be replaced,' he said. 'The CCRC cannot move forward with them in post. We need a full-time executive chair, with at least the standing of a High Court judge, and full-time salaried commissioners rather than the current part-timers. It needs better and better-resourced case managers. The CCRC, as presently organised and managed, is moribund.'

Earlier this week, Kim Johnson highlighted concerns over the manner of the exoneration of Oliver Campbell in a series of parliamentary questions. The judgment of the Court of Appeal has been met with alarm by his legal team. We reported on the day the judgment was published after a long delay that the conviction was overturned in 'the most begrudging fashion' with the court showing 'no sympathy for someone who many are convinced is an innocent and highly vulnerable man who had neither the intellectual capacity nor the physical dexterity to commit the crime' (more here). Kim Johnson asked the justice secretary, Heidi Alexander to 'make an assessment of the adequacy of compensation arrangements for people wrongly convicted of crimes' in the context of the case. The Court of Appeal effectively closed off Campbell's opportunity for compensation in a narrow judgment which his supporters believe failed to deal with the overwhelming evidence that points to his innocence. The MP also asked if the government would 'take steps to refer the Court of Appeal judgment in the case of Oliver to the Law Commission'. Alexander said the Law Commission would be looking at the compensation scheme. She said criminal justice policies had 'advanced in the 33 years since Mr Campbell's conviction, reflecting improved understanding of vulnerabilities'. 'Robust processes to support defendants are now in place and regularly reviewed, for example guidance for judges on relevant adjustments and the use of intermediaries,' Alexander added.

Need for Accountability for Torture in Rwanda Prisons

The Rwandan Patriotic Front (RPF), in power since the 1994 genocide, has long presided over the torture and ill-treatment of detainees, whether held in official or unofficial detention facilities across the country. On April 5, 2024, the Rubavu High Court, in the country's Western Province, convicted Innocent Kayumba, a former director of Rubavu and Nyarugenge prisons, of the assault and murder of a detainee at Rubavu prison in 2019, and handed him a 15-year sentence and 5 million Rwanda Francs fine (US$ 3,675). Two other Rwanda Correctional Service (RCS) officers and seven prisoners, who were accused of acting under instruction, were convicted of beating and killing prisoners. Three other RCS officials, including former Rubavu prison Director Ephrem Gahungu and Deputy Director Augustin Uwayezu, were acquitted. Human Rights Watch research indicates that serious human rights abuses, including torture, are pervasive in many of Rwanda's detention facilities and as far as Human Rights Watch is aware, Kayumba is the only senior prison official who has been held criminally accountable for abuse in detention in Rwanda.

Kayumba's case, as this report shows, underscores serious failings not only in Rwanda's correctional services, but in the judiciary and in the national human rights institution. These institutions have failed to investigate or address repeated and credible allegations of torture made by detainees or former detainees since at least 2017. Based on research conducted through trial monitoring and interviews with former detainees between 2019 and 2024, this report documents the torture and other ill-treatment in custody of detainees, whether in prisons or unofficial detention facilities. Some of the abuses were perpetrated by other detainees, who said during trial that they were forced to participate. Several accused opposition members and others have told judges during the course of their trials that alleged confessions taken during interrogations at an unofficial detention facility known as Kwa Gacinya—a house in the Gikondo neighborhood of Kigali—were obtained through torture. Judges rarely, if ever, ordered investigations into these allegations of torture.

While the trial of Kayumba and others is a significant step toward breaking the near total impunity for torture in Rwanda, it only delivered partial justice. For example, officials were convicted of assault and murder, but acquitted of torture, which under Rwandan law carries the

heavier penalty of a minimum of 20 years up to life imprisonment for public officials who commit torture in the course of their official duties. Moreover, several senior prison officials were acquitted altogether by the panel of judges despite the apparently damning evidence against them, according to Human Rights Watch interviews with former detainees. The prisoners ordered to beat fellow detainees were given sentences going up to 25 years of imprisonment, while the officials were given up to 15 years imprisonment, although they were responsible for preventing abuse and safeguarding the wellbeing of detainees. The transfer of Kayumba from Rubavu to Nyarugenge in 2019 allowed him to put in place the abusive, and sometimes fatal, practices in that facility, as he had in the former, while there was also a complete failure to hold accountable any other senior prison official involved in these abuses. The judiciary and the Rwandan Correctional Service's failure to order investigations into allegations of torture brought to the court by defendants compounded the impunity.

The National Commission for Human Rights of Rwanda (NCHR), which functions as the National Preventive Mechanism for torture, mandated to monitor the implementation of the Optional Protocol to the United Nations Convention against Torture (OPCAT), is not independent and has been unable or unwilling to report on cases of torture. It has consistently stated that no cases of torture and ill-treatment have been recorded in detention. The authorities also routinely curtail the work of other institutions with a mandate to monitor prison conditions and prevent torture. At the international level, the Rwandan government has obstructed the United Nations and other institutions from carrying out essential monitoring work in an independent manner. In May 2024, Human Rights Watch offered to meet with the Justice Minister to share preliminary findings of this research and learn more about efforts by the government of Rwanda to address the issue of torture in the country, but its senior researcher was denied entry upon arrival at Kigali International Airport.

Rwanda should comply with the provisions of its own constitution and fulfill its obligations under international human rights law—in particular the absolute prohibition on torture and cruel, inhuman, and degrading treatment—by systemically addressing allegations of torture and unlawful detention. It is important that Rwanda's government intensify efforts to hold all those responsible for torture, particularly those responsible for the torture of detainees, accountable. The government should conduct a comprehensive investigation into torture in Rwanda's prisons. To lend credibility to the investigation, the government should request the assistance of the African Commission on Human and Peoples' Rights (ACHRP) and United Nations experts on torture and prison conditions and should publicly report on its findings. Finally, the Rwandan government should cooperate with the UN Committee against Torture and submit its state party report and permit the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment to resume its visit to detention facilities unhindered.

Appeal Against Conviction for Failing to Produce an Immigration Document

CCRC has referred to the Crown Court a woman's conviction for failing to produce an immigration document. In November 2009, Ms W travelled overland from Iran to Turkey. She subsequently flew from Turkey to Heathrow Airport via an unknown Asian airport. She did not have a valid passport with her. Ms W claimed asylum on arrival on the basis that she faced political persecution, and her life was in danger if returned to Iran. She had been provided with a false French passport for her journey which she had destroyed. On legal advice, she pleaded guilty on 30 November 2009 at Uxbridge Magistrates' Court to failure to produce an immigration document, contrary to the Asylum and Immigration (Treatment of Claimants) Act 2004.

Following her release from prison, Ms W attended an asylum interview in February 2010 and was granted asylum. In May 2015, she was granted indefinite leave to remain. Ms W applied to the CCRC in November 2021 and, following a thorough review, the CCRC has found that she had a statutory defence to the charge on which she was convicted under section 2 of the 2004 Act, namely a "reasonable excuse" for failing to produce a valid passport. The legal advice provided to Ms W appears to have deprived her of that available defence. Consequently, there is a real possibility Ms W's conviction will be quashed by the Crown Court.

Woman Recalled to Prison for Missing Probation Appointment 20 Years Ago

She was said to have committed no crimes during her past two decades of freedom, and is now a mother with school-age children. Yet the law eventually caught up with her and she was sent to HMP Downview, in south-west London, to serve a recall period of just 12 weeks. As a result of the decision by the Probation Service to recall her, she lost her secure employment in the community. During her prison stay, she was not allocated any work or other activities.

The case was revealed in the annual report of Downview's Independent Monitoring Board, which said: "We query whether this is a sensible use of a prison place in the middle of acute population pressure, and also of HMPPS resources generally." The IMB contrasted the decision to take the woman into custody with the rush by both Labour and Conservative governments to empty jail cells by use of emergency early release schemes, saying that the woman had been recalled "at the same time as we saw what might be construed as knee-jerk, short-term measures to deal with population pressure".

When prisoners are released, they spend time on licence, and one of the standard conditions is to attend probation appointments. Missing an appointment counts as a breach of a licence condition, and the Probation Service has the power to recall the individual to prison. However, staff have some discretion and it would be unusual to recall a prisoner for missing one appointment, especially when many years have passed since it happened.

Commenting on the case, Andrew Neilson, Director of Campaigns at the Howard League for Penal Reform, said: "When someone moves on from crime and builds a new life with a secure job and a family, it makes no sense to disrupt that progress and send them back to square one. If the details in the Independent Monitoring Board's report are correct, this is an extraordinary and outrageous case that warrants further investigation." Asked by journalists to comment on the case, the Ministry of Justice issued a statement apparently defending the Probation Service's use of its powers, saying: "Offenders released on licence are subject to strict conditions and they can be recalled to prison for breaching them."

Haugen v. Norway (ECtHR) Failure to Prevent Suicide of Prisoner

Violation of Article 2 (right to life), Violation of Article 13 (right to an effective remedy). The case concerned the suicide of Mr Haugen's son while in Oslo Prison. He had been suffering from mental-health issues and had allegedly been a suicide risk. The Court concluded that the Norwegian authorities had not done all that could have been expected of them to protect the life of Mr Haugen's son. In reaching that conclusion it highlighted, in particular, the lack of adequate medical follow-up care of Mr Haugen's son after he was transferred from a hospital back to Oslo Prison and the decision to transfer him away from the close-supervision unit without any sort of in-depth medical assessment of his mental state. This is the first ever violation of Article 2 found against Norway. The Court also found that there had not been an appropriate means of obtaining a determination of his accusation of a failure to protect his son's right to life and to obtain satisfaction for the damage suffered by Mr Haugen.

Sebastião Lucas: Self-Inflicted Death 48 Hours After Arriving at Wandsworth Prison

Sebastião, a 34 year old Black man, died by ligature 48 hours after being remanded to Wandsworth prison on 12 May 2021. He had been arrested in hospital whilst being sectioned under the Mental Health Act. Now an inquest will look at the circumstances of his death. Since Sebastião's death, 24 people have died in HMP Wandsworth, 14 of these were self-inflicted deaths.

Sebastião was from Angola. Sebastião and his family came to the UK when he was four years old. The family settled in London and Sebastião developed a passion for football. He was an avid Arsenal fan throughout his life. On 6 May 2021, Sebastião was taken to St Thomas's Hospital, London, after telling police he was having suicidal thoughts. The next day, Sebastião allegedly assaulted a nurse after she told him he would be detained under the Mental Health Act. He was subsequently arrested and taken to police custody. He was placed under constant observation and frequently told officers that he intended to self-harm and take his own life.

On 10 May, Sebastião was taken to court and remanded to HMP Wandsworth. He arrived with a Person Escort Record (PER) detailing his suicidal ideation. Upon arrival at the prison, Sebastião told a prison nurse that he was planning to take his own life. The nurse put in place a safety plan for prisoners at risk of suicide or self-harm (known as an ACCT) and referred Sebastiao to the mental health team. He was placed on hourly observations. On 12 May at 2.26pm, a prison officer found Sebastião ligatured in his cell. Staff commenced CPR and an ambulance was called. Sebastião was pronounced dead by paramedics shortly after their arrival. The inquest into his death will now seek to examine events from April 2021 until Sebastião's death, including previous admissions to hospital during this time.

Crown Offer No Evidence in Assault Emergency Worker Case

FW was charged with assaulting an emergency worker. He had been detained for a search by two officers outside of his home address owing to an allegation of theft. An altercation ensued between FW and the officer, which was caught on the officer's BWV. Initial representations were served, which the Crown rejected. Following thorough review of the case material, including the statements provided by the officers and the BWV, including the audio, Violet re-advised on the many shortcomings of the Crown's case, including the officer's failure to adhere to GOWISELY and use of unjustifiable force (both PAVA and handcuffs), leading to renewed representations being served. Following receipt of these, the Crown offered no evidence and a formal verdict of not guilty was entered.

Court Of Appeal Allows Out of Time Appeal Against IPP

The Court of Appeal has quashed a sentence of Imprisonment for Public Protection ("IPP") imposed in 2010, having granted leave and a 14-year extension of time at an earlier hearing. The Court replaced the IPP with an extended sentence which resulted in the appellant's immediate release. Hayley Douglas appeared for the appellant who was sentenced to the IPP for an offence of s.18 GBH committed when he was 21 years old. At the time when the appellant was sentenced, the relevant provisions of the Criminal Justice Act 2003 had been amended and upon a finding of dangerousness the sentencing court had the option to impose a determinate or extended sentence rather than an IPP. The Court accepted the argument that the sentencing judge had not given reasons for rejecting an extended sentence and had erred in imposing an IPP when an extended sentence would have provided appropriate public protection.