The Million-Souls Black Prison Gulag

There are more black men in US prisons today than there were slaves in 1840, and they are being used for the same purpose; working for private corporations at 16 to 20 cents an hour. Half the states have private, for-profit prisons whose lobbyists are demanding longer mandatory-minimum prison sentences. Indeed, American blacks are incarcerated at nearly eight times the level of South African blacks during the height of apartheid.

Workers on the outside should also be aware of the consequences that prison slave labor poses for their jobs. Ironically, as unemployment on the outside increases, crime and the concomitant incarceration rate increases. It may be that before too long people can only find menial labor intensive production jobs in prisons or Third World countries where people labor under similar conditions. The factory with fences meets the prison without walls. “Mass incarceration on a scale almost unexampled in human history is a fundamental fact of our country today—perhaps the fundamental fact, as slavery was the fundamental fact of 1850. In truth, there are more black men in the grip of the criminal-justice system—in prison, on probation, or on parole—than were in slavery then. Over all, there are now more people under ‘correctional supervision’ in America—more than six million—than were in the Gulag Archipelago under Stalin at its height.”—Adam Gopnik, “The Caging of America”

Corporations Bringing Back the 19th Century: Getting Paid 93 Cents a Day in America? It can be found across broad stretches of the American economy and around the world. Penitentiaries have become a niche market for such work. The privatization of prisons in recent years has meant the creation of a small army of workers too coerced and right-less to complain.

Prisoners, whose ranks increasingly consist of those for whom the legitimate economy has found no use, now make up a virtual brigade within the reserve army of the unemployed whose ranks have ballooned along with the U.S. incarceration rate. The Corrections Corporation of America and G4S (formerly Wackenhut), two prison privatizers, sell inmate labor at sub-minimum wages to Fortune 500 corporations like Chevron, Bank of America, AT&T, and IBM.

These companies can, in most states, lease factories in prisons or prisoners to work on the outside. All told, nearly a million prisoners are now making office furniture, working in call centers, fabricating body armor, taking hotel reservations, working in slaughterhouses, or manufacturing textiles, shoes, and clothing, while getting paid somewhere between 93 cents and $4.73 per day.

Should America be proud that we imprison more people than any nation on Earth? Have we outsourced so many industries along with their factories that we need a giant prison system to keep people employed? If we continue to allow such a disproportionate number of poor and minority citizens to be locked up, released without rehabilitation, and locked up again, modern slavery will continue to thrive.

Hostages: 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, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, Sam Hallam, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Romero Coleman, Gary Critchley, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan Thakrar, Miran Thakrar,Jordan Towers, Peter Hakala, Patrick Docherty, Brendan Dixon, Paul Bush, Frank Wilkinson, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Simon Hall, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan, Ihsan Ulhaque, Richard Roy Allan, Sam Cole, Carl Kenute Gowe, Eddie Hampton, Tony Hyland, Ray Gilbert, Ishtiaq Ahmed.

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MOJUK: Newsletter ‘Inside Out’ No 369 26/04/2012)

Winston Green 8 - Only 1 person drove the car 8 charged with murder

Haroon Jahan and brothers Shazad Ali and Abdul Musavir died after being struck down by a car in the Winson Green area of Birmingham in August last year. This was in the aftermath of the killing of Mark Duggan, a 29-year-old black man, shot by police in Tottenham, North East London, on 4 August 2011. A killing that may never see an inquest or trial as the decision has already been taken to suppress the evidence.

The trial opened on Wedneday 18th April in Birmingham Crown Court with what would have been a comedy of errors if it hadn't been for the seriousness of what was happening.

Wednesday: Mr Justice Flaux began the trial at 10:30 am on Wednesday 18th April and adjourned it 15 minutes later as only two of the defendants were in Court. GeoAmy prisoner escort custody services didn't get the other 6 to Birmingham Crown Court until 12:00 noon.

When they were transferred from the escort vans into the holding cells in the Crown Court the senior custody officer refused to let the 6 change into their good clothes, this action was unwarranted and the 6 were eventually allowed to put on their Sunday best before entering the court dock at 14:00 hrs. Not much happened the rest of the afternoon, which was spent on jury selection.

Court 12 only had seats for 26 people in the public gallery, and had been segregated between families of the defendants and families of the deceased and no members of the public were allowed in. Yet the bloody press had 36 seats!

Thursday: Both the manager for GEOamy and the senior custody officer were brought before the court this morning and given a roasting by the presiding single judge, Mr. Justice Flaux appointed to the High Court Bench in April 2007. He made clear to GEOamy that they would face the full might of the courts wrath if they ever brought the defendants late to his court again and that if this meant they had to buy more vans, employ more personal, they must do so and do it quick. He further instructed them that they must have the defendants in the court cells no later than 09:15 each morning. He also instructed the senior custody officer of the Crown Court, that they must allow the prisoners to change their clothes on arrival at court, they would not be required to make the change in prison before being escorted to the court.

The trial itself finally got under way close to noon. The indictment read to the jury named each defendant in turn as being charged with three counts of murder. Mr. Spencer QC, opening the case for the Crown Prosecution, said there were three cars involved, an Audi, containing Mr. King, Mr. Goodwin, Mr. Ruiz-Gaviria and Mr Flynn. A Fiesta, containing Mr. Donald and Mr. Parkins and thirdly the only car which hit the deceased a Mazda containing Mr. Graham and driven by Mr. Beckford.

Next Mr. Spencer showed a video of the actual moment that the car hit the deceased, not only did he show it once but showed it three times. He was oblivious to the distress that the families of the deceased were showing, all of them breaking down in tears.

At this moment for reasons that are very unclear a verbal dispute broke out between the two sets of families, which led to the public gallery being cleared and the hearing suspended. After 15 minutes the families were allowed back in and the trial resumed with the QC getting down to the nitty-gritty of the events of the three nights of rioting in August last year.

Now it will be just the CPS building there case calling witnesses and when the CPS is done the defendants will take their turn. The trial is scheduled to last 10 weeks.

MOJUK is emphatic that only one person should be on trial for murder. Nowhere did Mr. Spencer for the CPS say that 8 people were in the car that hit the deceased, he was more than clear that 6 of the defendants were in other cars and only 2 defendants and only 1 of them at the wheel of the car that caused the fatalities. The video footage was clear that only one car was involved.

The manner and presentation of events by Spencer QC was emotive more fitting the trailer for a horror movie. To quote, “The driving you have just seen was not chance. It was not accidental. it was deliberate and co-ordinated. It was the modern day equivalent of a chariot charge.” Was he referring to the epic picture ‘Ben Hur’, circa 1959.in which the ‘Chariot race, 10 minutes of murdr an mayhem, entralled audiences around the world. Presentation of evidence in court by Crown prosecuters should be factual, clear, not playing to what they hope are the baser instincts of the jury.

The defendants are: Adam King, 24, of Redhill Road, Kings Norton; Joshua Donald, 27, of Kelsall Croft, Ladywood; Ian Beckford, 30, of Holly Bush Grove, Quinton; Ryan Goodwin, 21, of Cranford Street, Smethwick; Shaun Flynn, 26, of Wandsworth Road, Kingstanding; Everton Graham, 30, of Mount Pleasant Avenue, Handsworth; Juan Pablo Ruiz-Gaviria, 31, of Coplow Street, Ladywood; and 18-year-old Aaron Parkins, of Cavendish Road, Edgbaston.

Linda Carty Faces Death by Lethal Injection - Despite Doubts over her Conviction

After a catastrophically flawed trial, British grandmother Linda Carty was sentenced to death in February 2002 by a Texan court and is now, after being denied review by the US Supreme Court in June 2010, dangerously close to execution. It will now be very difficult for Linda to prevail in any court, and clemency – through the Pardons Board and the Governor of Texas – is the only other option.

Linda Carty was convicted and sentenced to die by lethal injection for the 2001 murder of Joana Rodriguez. On 16 May 2001, three men broke into the apartment of Rodriguez and her partner Raymundo Cabrera, demanding drugs and cash. They abducted Rodriguez and her four-day-old son, Ray, who was later found unharmed in a car, while Rodriguez had suffocated. The perpetrators struck a deal with the prosecution to save their own lives by trying to shift the blame onto Linda.

Linda was forced to accept a local court-appointed lawyer, Jerry Guerinot, whose incompetence has already led to 20 of his clients ending up on death row, more than any other defence lawyer in the US. Guerinot's catalogue of serious failings in Linda's case includes:

• Failure to spot obvious flaws and inconsistencies in the prosecution case;
• Failure to spend more than 15 minutes with Linda before the trial;
• Failure to investigate key mitigating evidence;
• Failure to inform Linda, a British citizen, of her right to consular assistance; and
• Failure to inform Linda’s husband of his right not to testify against his wife;

Based on the testimony of their informants, the prosecution’s theory was that Linda was afraid of losing her husband and thought that if she had another baby he would stay. They allege she was unable to get pregnant, and had hired three men to kidnap Rodriguez and that she planned to “cut the child out” of the pregnant mother. - a baby of a different race to Linda. The utter implausibility of this theory should have been obvious: Joana Rodriguez had already given birth to the child, as Linda clearly knew, being her neighbor. Since the baby would be a difference race to Linda, she could not possibly pass it off as her own. When the prosecu-

and the Lawrence case were also previously made in the Guardian in 2002 and by the BBC in 2006. Davidson denies any wrongdoing.

An IPCC investigation in 2007 found no evidence to substantiate allegations that a supergrass passed information about Davidson's alleged corruption in the Lawrence case to Scotland Yard, who then buried it. The concerns around former commander Adams and whether the Met passed information to the Macpherson inquiry about its investigations into him, may be the more likely of the two sets of allegations to increase the pressure on the home secretary to act. Factors against May ordering a new public inquiry include cost, and whether it would be the best forum to explore such issues. Factors in favour of an inquiry include the seriousness of the allegations and the fact they have not gone away, plus the fact a threshold for a public inquiry is relatively low. The Inquiries Act 2005 states that an inquiry should be held if "particular events have caused, or are capable of causing, public concern".

Report on an unannounced full follow-up inspection of HMP/YOI Littlehey

Inspection 31 October – 4 November 2011 by HMCIP. Report compiled February 2012, published Wednesday 25th April 2012. HMP/YOI Littlehey contains two adjacent but distinct sites: an adult category C training prison opened in 1988 and a new young offender training establishment opened in 2010. It was clear that the new young offender side had had a very difficult start, but by the time of this inspection it was settling down and outcomes for prisoners across both sites were good or reasonably good against all of our healthy prison tests.

However Inspectors were concerned to find that:

- strip-searching was sometimes carried out without sufficient justification;
- too many young adult Muslim prisoners were banned from attending religious services without current intelligence to support the need to do so;
- the security department blocked access for up to half of otherwise eligible prisoners who applied to attend family visits; for reasons that were sometimes unconnected to visits.
- there were insufficient activity places for young adults;
- work on equality was hampered because staff were frequently deployed elsewhere, and health services were too reliant on locum doctors;
- staffing shortages impacted most seriously on offender management, and large caseloads for offender supervisors and a backlog in reviews to address prisoners' offending behaviour.
- some security measures - particularly on the young adult site - now appeared too restrictive and required review.
- prison had a serious problem with vermin. cells designed for 1 held 2 prisoners - needs of foreign national prisoners were not adequately met.

August Riots: Helicopter Shooting, Bartons Arms, Newtown, Birmingham

At least 12 shots were fired at officers from four guns during the night of 'orchestrated violence' in Birmingham, a jury was told. Six men and two youths are on trial at Birmingham Crown Court over the incident. They are Tyrone Laidley, 20, Nicholas Francis, 26, and Joyah Campbell, 19, and two 17 year olds, who cannot be named for legal reasons, all of Birmingham. Wayne Collins, 25, of Luton, Bedfordshire, Renardo Farrell, of Wolverhampton, and Jermaine Lewis, 27, of Oldbury, West Midlands.

The court was told that it was the aim of the accused to get a large number of police officers out on the streets where they could then be attacked. [More on this anon

April 22, 1993. The call for a "Macpherson 2" comes as the Metropolitan police says it has been unable, after a month of investigating, to establish whether it passed potentially crucial files detailing investigations by its anti-corruption command to the public inquiry into Lawrence's death, which was held in 1998. Home Office officials have pressed the Met over a report in the Guardian last month revealing that a secret Scotland Yard report detailing questions about the conduct and integrity of a police chief involved in the Stephen Lawrence case was not given to the inquiry.

Former Met commander Ray Adams was questioned at the Macpherson inquiry about corruption. But neither the Lawrence family nor the inquiry panel were given a report by Scotland Yard containing the intelligence and findings of an investigation by its anti-corruption command. The investigation, codenamed Operation Russell, raised questions about Adams's conduct in the years before the Lawrence case, informed sources say, while finding insufficient evidence to bring criminal charges. Adams insists it exonerates him and told the Guardian he denies any wrongdoing. The Met's investigation into Adams began in April 1987, by which time he had risen to become the Met's head of criminal intelligence, in charge of gathering information about major criminals and criminal networks. It ended with no criminal or misconduct charges being brought against Adams but lists concerns about him, in one instance describing his conduct as highly questionable and unprofessional.

The investigation was carried out by the Met's complaints investigation bureau. It was triggered by allegations that Adams had taken bribes from criminals and had improper relationships with criminal informants, which he strenuously denied. Some of the allegations against Adams centred on his relationship with the subsequently convicted murderer Kenneth Noye. At the Macpherson inquiry the Lawrence lawyers claimed Noye had a criminal associate, Clifford Norris, whose son, David Norris, was a prime suspect in the murder of Lawrence. David Norris – along with Gary Dobson – was finally convicted in January this year of the murder. Macpherson found no evidence of wrongdoing against Adams, but Mrs Lawrence says the claims that potentially crucial material was kept from the inquiry means that finding must be revisited.

Mrs Lawrence said: "The revelations in the Guardian throw Macpherson's conclusions about corruption completely into doubt and justify my longstanding suspicions. This gives further impetus to my demand to the home secretary for a public inquiry into corruption. I cannot see how Theresa May can now refuse. Not only must a new public inquiry look at whether corruption existed in the police investigation but why it was that such critical information was kept from us – Stephen's family".

In the five weeks since the article was published the Met has been unable to say if it passed the files to Macpherson. The Met said it has started its own inquiry: "The Deputy Commissioner is overseeing enquiries to establish paperwork relating to investigations into corruption that have been linked to the Stephen Lawrence murder investigation. Should any new information arise it would be seriously considered."

Mrs Lawrence called on the Met to come clean: "The new commissioner has a choice to make; he can be open and transparent, or be tarred by the same brush of the past. We want to know what is in the file, and what other material the Met has about officers whom we suspected at the Macpherson inquiry." Several MPs as well as London mayor Boris Johnson have supported calls for a new inquiry into corruption.

Within weeks of the murder convictions earlier this year, the issue of corruption in the Lawrence case surfaced when the Independent made allegations about a detective in the Lawrence case, former detective sergeant John Davidson. The allegations about Davidson

tion produced “the scissors” that Linda was supposedly going to use to cut the child out, Guerinot failed to point out that they were bandage scissors, with a rounded end, obviously useless for any such purpose.

Despite the fact that Linda’s life was at stake, an investigator from Guerinot’s office spoke to Linda for the first time, just briefly, only a couple of weeks before her trial. Guerinot himself met with Linda for only 15 minutes before trial. According to Guerinot he tried to talk to Linda but she refused until bribed with a bar of chocolate. As with so many matters, Guerinot could not even make up a story effectively – Linda is allergic to chocolate.

Linda was born on 5 October 1958 on the Caribbean island of St Kitts to Anguillan parents and holds UK dependant nationality. She worked as a primary school teacher in St Kitts until she was 23 years old. Guerinot was awarded funds by the court to carry out investigation there but he never bothered to go. After Linda’s conviction, investigators from Reprieve visited St Kitts and learnt that she was still remembered as a passionate teacher who frequently held extra classes for children with special needs. She also taught at Sunday school, sang in a national youth choir and led a volunteer social-work group. The Prime Minister of St Kitts would have appeared as a character witness on her behalf, if only Guerinot had bothered.

Linda had a daughter Jovelle, then two (born 10 September 1979). Jovelle’s father emigrated to New York, leaving Linda as a single mother. In 1982, Linda emigrated to the US, seeking her American dream, but far too soon it began to unravel into a nightmare. Circumstances forced Linda to give up her higher education, and in 1983, her cousin and dearest friend Harriet died suddenly. During the 80s, Linda worked as a hair stylist, and the chatter of women associated with local drug dealing led Linda to work as a confidential informant for the Drug Enforcement Agency (DEA). Linda has always asserted her innocence of the murder charges, and believes that she was framed because of her work with the DEA.

In 1988 Linda was raped in a University of Houston car park. The rape resulted in a pregnancy and Linda gave up the baby girl (born 23 June 1989) for adoption. Two months prior to giving birth, Linda’s beloved father died, Linda was distraught. Linda felt a deep sense of shame at her rape, and concealed the pregnancy from her family. Later, she found herself in an abusive relationship and was a victim of domestic violence.

Under the Vienna Convention on the Right to Consular Assistance and a bilateral treaty between the UK and the US the US has undertaken an obligation to the UK to notify British consular officials whenever a British national is detained and notify the national of their right to consular assistance. The British consulate was not informed that Linda had been arrested and was being charged with capital murder; neither was Linda informed of this right to consular assistance. Guerinot clearly knew that Linda was not from the US but failed to do anything about it. The British government has filed friend of the court briefs before the US Court arguing that had they been notified of Linda’s arrest they would have assisted in obtaining meaningful and effective legal representation by consulting Reprieve at an early stage (i.e., Guerinot would never have been the lawyer), and attempted to persuade prosecutors not to seek the death penalty.

Indeed at the time of Linda’s arrest the Foreign and Commonwealth Office was already working closely with Reprieve. After Linda’s conviction Reprieve has gathered significant evidence in Linda’s case and Reprieve believes that had this evidence been presented at trial she would neither have been convicted of capital murder, nor been sentenced to death.

Guerinot never spoke to Linda’s common-law husband, Jose Corona. Corona was called as a witness by the Prosecution. It was never explained to him that there is a marital privi-

lege and under that privilege he had the right to refuse to testify. Had Guerinot informed him, Corona would never have testified. The prosecution tried to make much of some very unreliable gossip about Linda, and he did not want to help them secure this unfair conviction.

Linda is one of 10 women on death row in Texas. She is incarcerated at Mountain View Unit. The last woman to be executed in Texas was Frances Newton (14 September 2005). The last British woman to be executed was Ruth Ellis who was hanged at Holloway Prison on 13 July 1955. Since executions were resumed in the US in 1977 after a 5 year moratorium, 11 women have been executed, 3 of them in Texas.

Capital punishment in Texas has come under scrutiny since it emerged that a man who was almost certainly innocent was executed in 2004. Cameron Todd Willingham was executed for the murder by arson of his three young children but it has since been established that the forensic evidence of arson presented at trial had no scientific basis and should not have led to Willingham's conviction. As is sadly common, Willingham's lawyers did no independent investigation into how the fire started.

Write a letter of support to Linda at: Linda Carty, # 999406, Mountainview Unit, 2305 Ransom Rd, Gatesville, Texas 76528, USA. Letters must include a return address.

Agony of the couple wrongly accused twice of shaking four-month-old son to death

Social workers exacerbated their ordeal by taking second baby at birth. They first walked free in December last year after being cleared of killing four-month-old Jayden. Later faced allegations over the death in the civil family courts from local authority. In the High Court on Thursday 19th April a judge found the allegations hadn't been proved. They will now have their daughter returned to their care *By Claire Ellicott, Daily Mail, 19th April 2012*

A young couple who were in effect tried and cleared twice of shaking their baby son to death called last night for an inquiry into their 'agonising' treatment at the hands of social services, the NHS and the police. Rohan Wray and Chana Al-Alas were accused of killing four-month-old Jayden, who died of severe head injuries. While awaiting trial, they lost custody of the little boy's younger sister, Jayda.

They were cleared of all criminal charges when it emerged their son had been suffering from rickets which causes weak bones and could explain his injuries. Charges of murder and causing or allowing Jayden's (pictured) death were dropped following a six-week trial. However, their local council refused to return Jayda to her parents because it remained convinced they may have been responsible for her brother's death. The couple then endured a four-week hearing at the High Court during which the same accusations were levelled at them.

In the High Court on Thursday 19th April, in a landmark judgment, they were cleared for a second time, and later they spoke bitterly of their treatment. Mr Wray, 22, said: 'There are medical staff who we believe should be disciplined at an inquiry.

I think these medical experts who judge parents are dangerous people. They base much of what they say on opinion rather than fact.' His partner Miss Al-Alas, 19, added: 'The doctors and the police made allegations against us without any real proof, then they acted on these allegations.'

Their nightmare began in July 2009 when Jayden, their first child, began suffering seizures and refusing to feed. Doctors failed to identify that he had rickets and his condition continued to deteriorate. He died at Great Ormond Street hospital in London. After he was found to have multiple fractures and severe brain damage, his parents, from Islington, North London, were charged with murder and causing or allowing Jayden's death. Jayda was born in October

Number 126 introduces a conditional caution for low-level crimes which, if agreed to, means the offender can avoid courts and prisons. The deal is: agree to removal rather than deportation and to exclusion instead of a court hearing, a prison sentence and a criminal record. Sounds reasonable – but is it? Dr Adeline Trude of BID explains her concerns: "If they were facing deportation they would have a right of appeal, but by merely facing administrative removal they have no right of appeal, and are therefore less protected – ironically – than they would be if facing court, conviction, and sentencing."

Clause 132 takes it a step further and erases the notion of spent convictions, so that anyone deported as a foreign national stays deported in perpetuity no matter how minor the conviction. These clauses have wide implications and are typical of the casual, hysterical, confusion and contempt at the heart of policies determining the fates of the UK's latest pariahs.

Former Jurors Can Speak! - Sandra Lean/August 2008

It is illegal in this country to approach anyone who has served on a jury and ask them questions about how they came to their verdict. It is not, however, illegal for people who have served on a jury to talk about their experiences after the event.

Given that so many jury decisions seem to fly in the face of the evidence before them, the only way these decisions can be studied, and the underlying reasons for such strange decisions identified, is if people voluntarily discuss their experiences.

Any study of the causes of wrongful convictions must, of necessity, remain incomplete when researchers are forbidden to approach jurors, and also when police officers, people working in the CPS, etc, are unable to discuss their concerns for fear of losing their jobs, or breaking rules of "confidentiality."

Any researcher, myself included, can accept information which is voluntarily offered, and can, and will, assure anonymity for those who are willing to offer such information.Without it, we can never truly understand how our criminal justice system gets it so wrong, so often.

Also, our current system means there is no support or assistance for people who have served on a jury which has wrongfully convicted someone, when that conviction is overturned, or for people who have worked on an obviously flawed case. It's not hard to imagine how people must feel, discovering that they were duped into believing they were hearing "all of the evidence," or that they assisted in locking up a completely innocent person, yet all we can do is imagine, because, once again, we have no means of asking directly. Only if people in that position willingly and voluntarily discuss their feelings do we have any real way of knowing.

Stephen Lawrence murder: Theresa May considering new public inquiry

Home secretary motivated by allegations that police corruption may have shielded the gang that murdered Stephen Lawrence *Vikram Dodd, guardian.co.uk, Sunday 22 April 2012*

The home secretary is considering ordering a new public inquiry into the murder of Stephen Lawrence, the Guardian has learned. The prospect of a new Macpherson-style inquiry – the original report published in 1999 made landmark findings against the police – has been triggered by allegations that police corruption may have shielded the gang that murdered Lawrence in a racist attack. Theresa May sees the allegations as being of the "utmost importance" which must be investigated thoroughly to avoid undermining confidence in the police .

Doreen Lawrence has called on the home secretary to order a second public inquiry into the police investigation of the murder of her son, who was killed by a racist gang 19 years ago, on

Foreign national prisoners are the new pariahs

The UK's casual attitude to foreign national prisoners committing suicide is shameful – and a new bill will only make things worse *Melanie McFadyean, guardian.co.uk,121/0412*

Recent revelations that employees of the company contracted by the Home Office to deport foreign national prisoners and refused asylum seekers have been "loutish" and "aggressive" comes as no surprise. And it's no accident that these groups of people – the UK's prime pariahs – should be lumped together as a job lot of untouchables whose fate is easily shrugged off. The foreign national prisoner as hate figure emerged after former home secretary Charles Clarke was sacked for admitting that 1,000 foreign criminals were released between 1999 and March 2006 without being considered for deportation. In the wake of this rumpus, Tony Blair tried to set the agenda by saying he wanted the "vast bulk" of foreign prisoners to be automatically deported "irrespective of any claim that they have that the country to which they are going back may not be safe". Under the 2007 UK Borders Act, deportation became automatic for foreign nationals convicted of a crime carrying a sentence of 12 months or more.

At that time one name caught my attention – Joker Idris, real name Abdullah Hagar Idris. His story couldn't be less that of a Joker. He was a foreign national prisoner who committed suicide in prison in 2007. An asylum seeker from Darfur, Idris arrived as an unaccompanied minor, escaping after the Janjaweed destroyed his village. His family were scattered. He was alone and feared for his life. In October 2007, charged with affray, he got a 12-month prison sentence. It was clear from his police custody record that he was mentally disturbed, he had self inflicted cigarette burns on his arms, a cross carved into his flesh and was behaving strangely. He hanged himself in HMP Chelmsford on Christmas Day, aged 18. An inquest found "serious failings" by HMP Chelmsford and Essex social services which contributed to his death. Papers given to him in jail the day before he died revealed that he would be held beyond the term of his sentence, pending deportation.

Shocked by this story, I filed an freedom of information request asking how many foreign national prisoners had died in UK jails since Charles Clarke left office. The FOI request's response from the Ministry of Justice revealed that there were 70 foreign national prisoner deaths between 2007-2010, over half of them – 44 – self inflicted, a "significant spike" said the MoJ. Numbers had since returned, they continued, to "expected levels". Were those 44 people, whose names, stories and convictions remain a mystery, so frightened of being returned that suicide was the better option?

Research by Bail for Immigration Detainees (BID) found that foreign national prisoners, contrary to the murderous demon of the public imagination, exhibited 'extreme diversity'. Many had been here for most of their lives. Among Clarke's "missing" miscreants, Anne Owers – the chief inspector of prisons at the time of the debacle – found UK citizens, Irish and EU citizens and people who had committed minor offences, had families and were settled here.

Of course, there are foreign nationals in UK jails who are violent criminals and antisocial law breakers for whom one feels no sympathy. But grades of guilt and innocence shouldn't be a measure for how we treat people in custody, nor a justification when they commit suicide or are killed. Jimmy Mubenga, who died while under restraint during deportation by G4S escorts on a British Airways flight, had served a two-year sentence for a violent crime. Nothing justifies his death, nor the suicide of Joker Idris and the 44 prisoners in that "spike" in UK jails.

There is further erosion of these people's human rights in the fine print of the forthcoming legal aid, sentencing and punishment of offenders bill, in two largely unnoticed clauses.

2010 and was immediately taken from the couple.

In December 2011 an Old Bailey judge ordered not guilty verdicts to be returned because there was insufficient evidence to convict after more than 60 prosecution and defence medical experts had failed to agree on a cause of death. The court heard that Miss Al-Alas suffered from a severe vitamin D deficiency that would have been passed to Jayden, causing injuries that led to his death. But Islington Council remained concerned for Jayda's safety and, because the couple had not been acquitted by a jury, chose to stage in effect a re-run of the criminal case.

Handing down her judgment, Mrs Justice Theis paid tribute to Jayden's parents, saying: 'Despite the parents' youth and the fact the pregnancy was unplanned, Jayden was very much a wanted baby.' Sitting at the High Court's family division in London, she said the case against the pair was not proved and called for more research into vitamin D deficiency and its effects on young children. She said: 'The issues surrounding vitamin D deficiency have dominated this hearing.

'Evidence has been given that it is on the increase, leading possibly to an increase in congenital rickets. 'The identification of it is not easily done, as this case so graphically demonstrated.' The disease, which was discovered at Jayden's post mortem, weakens the skulls of children and causes their bones to break easily – symptoms which closely mimic those of a deliberately shaken baby.

Mr Wray said: 'We feel we were treated very poorly by the state authorities involved in investigating our case. We were viewed as guilty from the outset.

They went down the line that we had done this to our son by shaking him. If the doctors had found the rickets problem, we feel our son could still be alive today. But our agony at losing Jayden was exacerbated when we were accused of killing him.'

Police refused to let the couple or their family attend Jayden's christening, which they requested before his life support machine was switched off. They were not allowed into the paediatric intensive care ward to see him when he died.

But the parents said the most heartbreaking moment of their ordeal was when their newborn daughter was taken from them. Mr Wray said: 'Since the Baby P tragedy social workers, the police and doctors have become over-keen to snatch children from innocent parents. 'We feel that they should look more closely at the facts of each case before pointing the finger of blame.'

Ann Thompson of law firm Goodman Ray, representing Miss Al-Alas, said: 'Nothing is as sad as the death of a child. 'But for these parents, the nightmare went on and on. It was compounded by the criminal investigation and then the loss of their daughter without being able to bond with her. They are delighted and relieved that they can finally be allowed to grieve for their son and be reunited with their daughter.' Islington Council declined to comment.

Wrongly Accused Person: While most people will consider the wrongly accused person to be the victim in miscarriage of justice cases, there are in fact four groups of victims.

1. The accused person goes without saying and regardless of what the charge will need considerable time to recover from the trauma if ever. She/he will undoubtedly struggle to overcome the stigma of simply being charged of an offence, the more serious the offence, harder to clear a name in the public eye. Certainly charges being dropped or even an acquittal in court won't be the end of the nightmare for this particular victim.

2. The person or persons originally thought to be the victim(s) of the accused are now victims of misjustice. They have had to come to terms with being sure of his/her guilt, learned to direct their anger at them and will have thought of a conviction as a starting point of the rest of their lives. Not only has the justice system failed the accused, it has failed them too and

prolonged their own anguish which now must be revisited again when coming to terms of the truth if they ever find out what it is.

3. Thirdly the friends and family of the original victim (who is now a victim of 2 circumstances) have endured their own ordeals. They have had to battle to accept what they have been led to believe and will again have to learn to accept the truth before the accused person stands any chance of reconciliation with all or any of them should he desire to do so. Often their assumption of his guilt will have destroyed any relations they had before the legal process began beyond repair.

4. Lastly and by no means least are the family and friends of the accused person. They are fraught with concern, sure of innocence but feel powerless to help and simply can't know how best to do so since there is no one who is there to tell them. In many cases social workers will offer but they have a foot on both sides of the fence and often relations will turn sour and their assistance will therefore be short-lived. I know in my case they felt as hurt, frustrated and helpless as I did despite the overwhelming amount of public support we all received. At the end of the day, the accused's future depends on his choice of legal representatives which in the majority of cases will be people he/she doesn't know. Can you imagine putting your life literally in someone's hands not knowing who they are or how skilled they are in their positions?

I hope in discovering Wrongly Accused Person web site you will find information and advice which is useful to you. In the long term as I continually update and develop it I am confident that while false allegations and charges will continue to occur, a wrongly accused person and their family will now have somewhere to turn to reduce the heartache and torment caused. My satisfaction will come from the knowledge that I will have aided others who find themselves in a position outlined above.

At the time I began writing this website, I had recently been acquitted of 1 charge of indecent assault, 1 charge of murder and 2 charges of attempted murder. A case which obviously attracted significant media interest and one which should never have passed the first hurdle. The reasons as to how I can say this will become clearer as the site develops however at the time of writing there are legal processes underway which limit exactly which details I can openly reveal. Since the individuals and departments responsible deserve to be investigated fairly without prejudice (a privilege I was never afforded), there are obviously restrictions on what actions or details I can be specific about however I will endeavour to paint as full a picture as possible in the meantime with a view to highlighting factors which can cause innocent people to be vilified and become victims of the justice system intended to protect us all.

Billy Middleton: Activist, Campaigner Against Miscarriages of Justice

Reaching a verdict: Miscarriages of Justice - Eduardo Reyes, Law Society Gazwtte, 13/04/12

No one asserts that either institution CCRC or Court of Appeal, comes out of its dealings with the Gilfoyle case looking good

For lawyers there are few more emotive matters than a miscarriage of justice. Small wonder then that the angst around the failures of the Criminal Cases Review Commission (CCRC) is much more than existential. Defence lawyers and campaigners for reform of the CCRC describe an organisation that is hamstrung by a body of legislation that increasingly assumes the guilt of any defendant; whose staff are inconsistent; and whose closeness to the Court of Appeal leads the CCRC to bring only predictable cases before it.

At a symposium on the reform of the CCRC, held at the end of March at the offices of Norton Rose in London, even the former CCRC commissioner David Jessel confessed he was discomfited by the organisation's performance.

tude in the observance of Convention rights – on this morally delicate issue.

The ban, argued the German Government, served to protect the family structure and hence society as a whole. As incestuous relationships often involve an imbalance of power between the parties (in the instant case, Patrick was seven years older than his 16-year-old sister, who suffered from a personality disorder and learning difficulties), the ban also protects the weaker partner. The risk of genetic damage to offspring adds another justification for imposing criminal liability. Finally, the ban reflects societal convictions on the immorality of incest. As for the penalties for incest, the German courts had a range of options available, including the possibility of dispensing with prosecution altogether.

European Court's assessment: The Court agreed that the conviction interfered with Patrick's private life. It also noted that, since the ban is aimed at the protection of morals and the rights of others, it pursued a 'legitimate aim' within the meaning of Article 8(2). The key question was whether the conviction satisfied another requirement of Article 8(2): the interference must be necessary in a democratic society.

The Court laid out a number of principles about the margin of appreciation, reviewed the laws of other member states on incest, and concluded that "the domestic authorities enjoy a wide margin of appreciation in determining how to confront incestuous relationship between consenting adults, notwithstanding the fact that this decision concerns an intimate aspect of an individual's private life." [61].

Reflecting on the deliberation and conclusions of the Federal Constitutional Court, the European Court held that the Federal Court's decision was reasonable. Patrick's conviction corresponded to a pressing social need. Germany's domestic courts did not stray beyond the wide margin of appreciation, and there was no breach of Article 8.

Comment: The European Court's reasoning is meagre. It avoids a careful analysis of each individual argument and counter-argument. The dissenting judgment by Judge Hassemer in the Federal Constitutional Court contained a number of thought-provoking observations – such as the law's prohibition of sexual intercourse but not other sexual acts that are also potentially damaging to family structures and society – that were side-stepped by the European Court.

Instead, the Court reaffirmed the principle that, in sensitive matters of morality where no consensus exists within member states, the margin of appreciation will be broad. Individual states are better placed than the European Court to evaluate the moral convictions of the people and the manner in which these convictions should be translated into domestic law, if at all. Germany, like the UK and many other European countries, prohibit incest between adult siblings. In other countries, such as Portugal and Serbia, incest has been decriminalised. However, such is the Court's reliance on the margin of appreciation that Lord Lester's concerns that the concept has become as "slippery and elusive as an eel" and a "substitute for a coherent legal analysis of the issues at stake" spring to mind.

A detailed exploration of incest would raise profound questions about ethics (what exactly have Julie and Mark done wrong?), moral psychology (what is the relationship between intuition, emotion, and reason?), and the aims of law in general (is it the law's business to meddle in matters of private morality?).

Taking cover behind the 'margin of appreciation' and the variability of European approaches to the issue of incest, the European Court chose not to meddle with the conclusions of the Federal Constitutional Court.

This is an understandable approach, but one that will leave the philosophically minded unfulfilled and, more importantly, will provide scant comfort to Patrick Stübing.

pact of secrecy. When one argument was rebutted, people plucked out another. When their ammunition was exhausted, most people clung to their view that Julie and Mark committed a grave moral wrong. Haidt calls this state "moral dumbfounding". His conclusion is that intuitive moral judgments precede the explanations of the rational brain.

Now consider the recent case of Stübing v Germany. Patrick Stübing was born in 1976 in Leipzig. Three years later, he was removed from his family, placed in a children's home and then with foster parents. At seven, he was adopted by his foster parents. In 2000, aged 23, he re-established contact with his family and discovered his 16-year-old sister, SK. In December 2000, their mother died and the relationship between Patrick and SK intensified. The following month, they had consensual sex. Over the next five years, they had four children, after which Patrick underwent a vasectomy. The youngest daughter now lives with SK, but the other children are with foster families.

The German Criminal Code (section 173) prohibits sexual intercourse between consanguine siblings. It is punishable by up to two years' imprisonment or a fine. Consensual sex between siblings is a criminal offence in the majority of states of the Council of Europe, including the UK.

In April 2002, Patrick was convicted of 16 counts of incest. He received a suspended sentence and was put on probation. He was again convicted of incest in April 2004 and November 2005, on each occasion receiving a custodial sentence. Although charged, SK did not receive a sentence. The District Court ruled that she suffered from a personality disorder and mild learning difficulties.

In January 2007, the Dresden Court of Appeal rejected Patrick's appeal. The following month, he lodged a constitutional complaint, arguing that section 173 of the German Criminal Code violated his right to sexual self-determination, discriminated against him, was disproportionate, and interfered with the relationship between parents and children born out of incestuous relationships.

On 26 February 2008, the Federal Constitutional Court – Germany's equivalent to the US Supreme Court – rejected Patrick's complaint by seven votes to one. The Court ruled that the ban was justified on the grounds of public health, self-determination and the protection of the family and society. Patrick started his prison sentence on 4 June 2008 and was released on probation a year later. He went to the European Court of Human Rights, alleging that his criminal conviction violated Article 8 of the Convention (right to respect for his private and family life).

The Applicant's Case: Patrick argued that the conviction breached his Article 8 rights by affecting his ability to raise his children and interfering with his sexual life. There was no pressing social need to justify the conviction. Incestuous relationships did not spread genetic diseases in society and, moreover, other people with a higher risk of transferring genetic defects, such as older and disabled persons, were allowed to procreate. The criminal ban, plagued by inconsistencies, did not protect the family unit. Why ban sexual intercourse between siblings but permit other forms of sexual contact? Why exempt step-children or adoptive children from criminal liability?

In Patrick's case, the siblings had not grown up together. The normal sexual inhibitions had not developed. The sex was consensual. No one was harmed by the incest. In fact, the conviction destroyed a new family unit. Unlike incest between mother and son, or father and daughter, there were no overlapping family roles. A prospective child would have a clear mother and father. Finally, the protection of morals was not a sufficient reason to justify the criminal conviction.

The Government's Case: In response, the German government admitted that the conviction interfered with Patrick's Article 8 rights, but argued that, since the interference was necessary in a democratic society to prevent disorder and protect morals, it was a restriction justified by Article 8(2). The European Court should grant member states a broad 'margin of appreciation' – a certain lati-

Not surprisingly Susan Caddick, the sister of alleged miscarriage of justice victim Eddie Gilfoyle (pictured, with his sister), went much further. 'The CCRC should be a national treasure,' she told the audience. 'But it is not, and we should all be ashamed of that.' Her presentation was listened to in rapt silence and acknowledged at the end with loud applause.

Safeguards fail at every level: As is now well known, when Caddick's brother was convicted of his wife's murder, Merseyside police had concealed from the court evidence that pointed to suicide. Errors by the police had also led to crucial evidence at the scene being ignored and destroyed. But it was what followed over the succeeding 20-year period that has been a Kafka-esque experience for Gilfoyle and his family.

Lancashire police, called in to look at the case as an independent force, found no evidence of a crime. But when Gilfoyle's case was sent to the Court of Appeal in 1995 on the basis of Lancashire's report, the appeal judge ruled that none of the Lancashire force's evidence could be heard because disciplinary matters at Merseyside were ongoing, meaning that Lancashire police's report was not completed. Key disciplinary matters were then resolved a day later.

In 2000, when the CCRC sent the case back again, the judge ruled that the Lancashire investigation was not new evidence, as it had been used in Gilfoyle's first appeal. So, again, it was not used in evidence. Gilfoyle's case will now go to the Court of Appeal again, following the chance discovery by Gilfoyle's solicitor of previously undisclosed evidence, including letters written by his wife that supported the theory that her death was suicide.

While some plead points in mitigation for the CCRC's performance and that of the Court of Appeal, no one asserts that either institution comes out of its dealings with the Gilfoyle case looking good.

It was not meant to be that way of course. As John Cooper QC recalls: 'At the time the CCRC was set up [in 1997], the campaigning group Justice was so optimistic about its foundation that it stopped its work on miscarriages of justice.' No longer would miscarriage cases be at the mercy of the home secretary.

To see how it should have turned out, one could look at the work, and standing, of the Independent Police Complaints Commission (IPPC). The IPPC may have its failings, but its remit includes the requirement to investigate - and as Caddick puts it, 'the CCRC don't investigate miscarriages of justice', they review the evidence. Where others have presented new evidence for review, she adds, 'it's all done for them'.

Context is everything: While there are aspects of the CCRC's conduct and remit that lay it open to specific, if telling, criticisms, as Cooper points out, it operates in a context that acts against a miscarriage being overturned. The drift of public policy, Cooper argues, is heavily weighted against defendants' rights, because it has been designed to make it easier to secure convictions. 'Legislation is conviction-oriented,' he notes, 'whether by design or chance' the majority of legislation aims to 'encourage a conviction.'

The last defence-oriented piece of legislation, Cooper notes, was the 1984 Police and Criminal Evidence Act: 'That is the arena the CCRC has to refer to.' An impecunious criminal justice system is also a factor, he adds, resulting in an attitude designed to 'keep trials on track' - an attitude that removes some crucial safeguards that could ensure a fair first trial.

This attitude to justice's safeguards, QualitySolicitors Jordans partner Mark Newby claims, extends beyond trials to the review process itself. In common with other practitioners concerned with the operations of the CCRC, Newby believes that CCRC caseworkers reviewing cases vary hugely in their professionalism, are inconsistent and miss crucial points.

'Some case reviewers are very good,' he notes, 'and some are very bad'.

Newby cites one case where the CCRC refused to refer a case to the Court of Appeal because it claimed key forensics evidence had been dealt with at trial, where it had not. In another, he says, the CCRC would not look at the significance of DNA on a victim's clothing that did not match that of a convicted person. In general, he believes, the CCRC's caseworkers are too willing to speculate on the reasons for inconsistencies in the evidence surrounding the case.

Newby recalls a further case where a CCRC caseworker speculated that the accused's distinctive head bump could have disappeared on the day of the crime. This, it was insisted, would discount evidence that he had been wrongly identified.

According to this analysis, CCRC caseworkers are not just deciding to 'second-guess' aspects of the cases they are reviewing out of laziness, despite Newby's 'serious concerns about consistency'. Rather caseworkers are responding to the ways that their roles are circumscribed. As Caddick and Cooper note, the CCRC does not investigate. It is reluctant to use new expert evidence in the process of reviewing cases. And requests to examine a case on forensics terms can be dismissed as 'speculative'. Additionally, as Newby points out: 'We have to expand the powers of the CCRC to obtain private documents.'

A question of priorities: Cooper, who recently represented the family of Dr Crippen in their attempt to have his conviction for murder overturned, also suggests that 'there should be no sell-by date for cases'. His plea, he insists, is no posthumous piece of theatre on behalf of Crippen. Instead, it is a recognition that for someone convicted, but no longer in custody, the continued existence of their conviction may be unfair, where evidence exists that could quash that conviction.

'The priority ranking system should be reviewed,' Cooper says. Considering cases where the convicted person is in custody, before those where the convicted person is at liberty because they have served their time, he notes, is unsatisfactory. It is a point Caddick sees all too clearly - for although her brother now has his liberty, 'the damage done' by his conviction is not just 'irreparable', but continues to hurt both Gilfoyle and his family.

Public policy may be overwhelmingly conviction-oriented - driven by the need to secure a conviction for the sake of 'victims of crime'. But listening to Caddick speak, on behalf of her brother and family, it is striking how similarly she presents to the testimony of eloquent victims of crime. It is, perhaps, that clear resemblance in these parallel experiences that makes it difficult to believe that 'business as usual' at the CCRC can continue.

Sexual offender prisoners unlawfully denied certain privileges under prison rules

Rosalind English, UK Human Rights Blog, 17 th April 2012

R (on the application of Ian Shutt and John Tetley v Secretary of State for Justice (2012) [2012] EWHC 851 (Admin) –

Hard on the heels of MP comes another case on the unlawful restriction of discretion with regard to prison rules. This case concerned national policy relating to prison incentives and the earned privileges scheme (IEP). The scheme gave enhanced status to convicted sex offenders who had been assessed as unready for a sexual offences training programme.

Background: Both men were serving substantial determinate sentences in the Isle of Wight after having been convicted of serious sexual offences against children. Despite the fact that they had been assessed as suitable for the training programme under the national IEP policy, there was a points system under the local prison policy which meant that convicted sex offenders such as the claimants were considered unready for the programme by reason of continued denial of their offences. As the claimants refused to admit their guilt, they could not accrue enough points to attain enhanced status. The national IEP policy stated that unreadiness for such a programme "could" bar a prisoner from obtaining enhanced status. The issue was whether that amounted to a blanket ban, and if so, whether it was unlawful.

The claimants' application for judicial review of the prison governors' decision was granted.

The court's reasoning: The natural meaning of the word "could" in the national IEP policy was that a prisoner in the same situation as the claimants could be denied enhanced status, but that such denial would not be automatic. Thus there would need to be an informed decision as to whether a particular sex offending prisoner in denial and therefore unready, should be refused enhanced status. Each case had to be considered individually even though denial of enhanced status would be the likely outcome in the vast majority. A local policy such as the one operated at HMP Isle of Wight (Albany), which excluded any element of discretion as to eligibility for enhanced status, applied equally to any sex offender with a sexual offences training programme as a target and who was in denial. It took away all discretion from the decision-maker and therefore operated as a blanket ban.

Such cases ought to be looked at on an individual basis even though, in the vast majority of them, the result was still likely to still be a refusal of enhanced status. So even though on the facts there had been no injustice to either of the claimants, the application of the unlawful policy to them had to be addressed. As Belcher J said:

. . . . in this case I am not dealing not with a decision as to whether to award Enhanced status to a particular prisoner, but on the contrary a situation where no decision is in fact made on that issue because of a blanket bar in the local policy.

Whilst fully mindful that the prison service should be able to make operational decisions without undue interference from the court, the judge felt constrained to come to the conclusion that a local policy which excludes any element of discretion in the decision making process as to whether an "Unready Denier" should be denied Enhanced status was unlawful.

What's so wrong with incest? The case of Stübing v Germany

Daniel Soko, UK Human Rights Blog, 15th April 2012

Stübing v Germany (no. 43547/08):The European Court of Human Rights (fifth section) has ruled unanimously that Germany did not violate Article 8 of the European Convention on Human Rights (right to respect for private and family life) by convicting Patrick Stübing of incest

Jonathan Haidt, a well-known social psychologist, presented this scenario as part of a study:

Julie and Mark, who are brother and sister, are traveling together in France. They are both on summer vacation from college. One night they are staying alone in a cabin near the beach. They decide that it would be interesting and fun if they tried making love. At very least it would be a new experience for each of them. Julie was already taking birth control pills, but Mark uses a condom too, just to be safe. They both enjoy it, but they decide not to do it again. They keep that night as a special secret between them, which makes them feel even closer to each other. So what do you think about this? Was it wrong for them to have sex?

Most people answered with a resounding yes, supporting their "yuck" response with reasons. Yet, Professor Haidt noticed that many respondents ignored elements of the story. Some invoked the risk of bearing children with general abnormalities despite mention of two forms of contraception. Others referred to the risk of damaging the sibling relationship, ignoring the fact that the experience actually improved their relationship. Others pointed to the impact on others, but overlooked their