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HMP Wandsworth - Population Increase Threatens Progress In Troubled Prison

Inspectors who visited the heavily overcrowded, vermin-infested HMP Wandsworth men's prison in September 2021 concluded that a reduction of 300 in the population, and dynamic work by the governor, had prevented it from being overwhelmed by its many challenges. However, Charlie Taylor, HM Chief Inspector of Prisons, warned that a planned increase in the number of prisoners held threatened the limited progress that had been made in the south-west London Victorian prison since the last inspection in 2018. HM Inspectorate of Prisons found a catalogue of problems: Prisoners were locked up for at least 22 hours a day and sometimes had only 45 minutes unlocked. They complained to inspectors about going for days, and sometimes weeks, without time in the open air. Despite the reduction of the population by 300, to 1,364 in September 2021, Wandsworth remained one of the most overcrowded prisons in England and Wales, with nearly three-quarters of prisoners doubling up in cells designed for one. Violence had been on an upward trend over the last 12 months, with assaults on staff much higher than in similar prisons.

There were not enough staff to make sure prisoners received even the most basic regime. They sometimes had to choose between exercise, ordering from the kiosk and having a shower. Litter and food were thrown from cell windows and the prison had a major problem with rats, mice and pigeons. Gym sessions were regularly cancelled and much of the essential resettlement and sentence progression work was not happening. The education provider had failed to do enough to engage prisoners or develop learning opportunities for a population that was desperately bored. The education block had sat unused since March 2020.

Nearly half of the prisoners were foreign nationals, many of whom came from eastern Europe. Mr Taylor said: "The prison, the education service and, in particular, Home Office staff, were not doing enough to support this group of prisoners." Mr Taylor added: "The infrastructure of the jail needed a lot of work: cells and landings were often tatty, some of the showers were awful and outside areas were strewn with rubbish. The inpatient mental health unit, due to be refurbished, was not a fit place to care for seriously unwell patients."

On a more positive note, there had also been some impressive improvements: the legal visits and video conferencing took place in an excellent facility and the visits hall had been decorated with prisoner-painted murals. Despite the poor daily regime, inspectors found a generally calm atmosphere in Wandsworth, possibly because prisoners were kept well informed about the pandemic and important developments. As well as a high number of foreign national prisoners, the population of Wandsworth was characterised by nearly three-quarters being unsentenced and nearly half serving time on remand. Understandably, Mr Taylor said, the experienced and dynamic governor had focused on keeping the day-to-day functions of the prison going as he dealt with the extensive list of challenges. "He now has the opportunity, with an improving leadership team, to put in more robust assurance systems around some crucial functions such as use of [staff] force, safeguarding and violence reduction."

There had been nine self-inflicted deaths since 2018 and the prison must continue to respond to Prisons and Probation Ombudsman's reports into those deaths to make sure that everything is done to reduce the risk to the most vulnerable prisoners. As some of the concerns about the pandemic begin to reduce, leaders will also have the opportunity to focus on developing longer-term plans for the jail that set targets and introduce effective systems for monitoring and review. However, Mr Taylor issued a warning: "Leaders in this crumbling, overcrowded, vermin-infested prison will need considerable ongoing support from the prison service, notably with the recruitment and retention of staff, improving the infrastructure of the jail and making sure that external agencies such as the Home Office and the education provider pull their weight. It is hard to see how HMP Wandsworth's limited progress can be sustained if prisoner numbers in this jail are allowed to increase as they are scheduled to do next April [2022]."

Left Hanging - Imprisonment for Public Protection a Policy Without Supporters

Catherine Baksi, Law Society Gazette: Abolished in 2012, why are so many prisoners still caught in its clutches? Pressure is mounting on the government to remedy an injustice branded by former Supreme Court justice Lord Brown as the 'single greatest stain on our criminal justice system'. The former lord chief justice, Lord Thomas of Cwmgiedd, told the House of Commons justice committee last December that all prisoners serving indeterminate sentences of imprisonment for public protection – so-called IPP sentences – should be resentenced. Lord Thomas said: 'You need to fix the immediate problem quite quickly by some sort of rough and ready justice; first, to deal with those who are still in prison when you have gone beyond the maximum that they could have for a determinate sentence, and, secondly, to deal with those on licence.' Because 'something has gone wrong', said Thomas, this requires looking at the 'injustice' that has been done to IPP prisoners, the majority of whom were not dangerous, yet in respect of whom imprisonment has 'made worse and less susceptible to release than had they been given a determinate sentence'. In the same week, peers on both sides of the Lords called for an amendment to the Police, Crime, Sentencing and Courts Bill to allow for the release of IPP prisoners who had served more than their tariff sentence unless they posed a risk to the public, and to reduce the time they spend on licence. Tory peer and former solicitor general Lord Garnier QC told his colleagues: 'This obscenity must now end.'

Fellow barrister and cross-bencher Lord Pannick, meanwhile, noted that the government 'have had years to think about the options'. He asked what it was going to do to 'address a manifest injustice'. Liberal Democrat peer and former assistant prison governor, Baroness Burt of Solihull, also weighed in. She described the sentences as 'a form of modern-day torture, fuelled by a constant sense of anxiety, hopelessness and strong feelings of injustice and alienation from the state'. IPP sentences were introduced by the Labour government through the Criminal Justice Act 2003, for offences committed on or after 4 April 2005. They were designed to ensure that dangerous, violent and sex offenders, whose crimes were not so serious as to merit a life sentence, stayed in prison for as long as they presented a risk to society.

Punitive Element: Like a life sentence, IPP had a tariff or punitive element, which had to be served before the individual could have their case reviewed by the Parole Board. IPP prisoners could only be released if the board was satisfied that they had addressed their offending behaviour and were no longer a risk to society. But it is difficult for prisoners to prove such a negative, argues Aston Luff, a solicitor at Hodge Jones & Allen. Luff represented the family of Tommy Nicol, who took his own life after spending six years in prison on an IPP sentence. As originally drafted, there was no minimum requirement for the length of the tariff and IPP sentences were given to less serious offenders who had very short tariffs – in one case, just 28 days. Dean Kingham, a prison and public law solicitor at the London law firm Reece Thomas Watson, explains that the overcrowded prison system being 'starved of resources' meant prisoners

were unable to access the rehabilitative programmes to help demonstrate that they were no longer a risk. As a result, they were kept in prison for months and years after the tariff had expired. By December 2007, when there were 3,700 IPP prisoners, it was estimated that 13% were over tariff. This led the Court of Appeal to rule that the secretary of state had acted unlawfully, and that there had been 'a systemic failure to put in place the resources necessary to implement the scheme of rehabilitation necessary to enable the relevant provisions of the 2003 act to function as intended'. According to the House of Commons justice committee, which is conducting an inquiry into the problems caused by IPP, some 96% of those still in prison have completed their minimum term; many have served two or three times longer than their minimum term; and over 500 have been held in prison for over 10 years longer than the tariff they were given.

Even when an IPP prisoner is released, explains Luff, they are subject to an indefinite licence period. For the rest of their lives, they are potentially liable to being recalled for minor breaches of their licence. Andrew Sperling, a solicitor at Tuckers, criticises the process – administrative rather than judicial – which makes recall 'too easy'. Requests, he says, are 'almost never refused' and are triggered for non offence-related breaches, such as missing probation appointments, returning late to approved premises, or for behaviour which 'would not remotely reach the criminal or custodial threshold in other circumstances'. Once recalled, it is difficult to be released again and, says Luff, prisoners again have to wait for a hearing to prove to the Parole Board that they are safe to be let out once more. 'Many of those released therefore continue to suffer high levels of anxiety and stress as a result of the awareness that they may be recalled by probation without notice at any moment, irrespective of their efforts to comply with the licence conditions,' he says. While they can apply for their licence to be cancelled after being out for 10 years, Sperling points out that only about 70 have successfully done so.

In the wake of widespread criticism, in 2008 the Labour government reformed the regime to introduce a 'seriousness threshold' that had to be satisfied before the court could impose an IPP sentence, which meant prisoners generally had to be given a determinate sentence of at least two years. Yet the same problems persisted. In 2012, three prisoners who were subject to IPP sentences went to the European Court of Human Rights, in James, Wells and Lee v UK. The court held that the failure to make appropriate provision for rehabilitation services while the men were in prison breached their rights under Article 5 of the European Convention on Human Rights, which protects the individual from arbitrary detention. Inheriting the 'very serious problem' of IPP prisoners, which the prisons minister Crispin Blunt in June 2010 labelled as 'not defensible', the coalition government finally abolished the sentences in the Legal Aid, Sentencing and Punishment of Offenders Act 2012. They were replaced with mandatory life sentences for second serious offences and new extended sentences. But the change was not made retrospective and did not affect the position of existing prisoners serving IPP sentences.

In 2005, the Labour government had anticipated that the regime would be used for around 900 offenders, but IPP sentences were given to 8,711 people. When they were abolished, there were still over 6,000 IPP prisoners in custody. According to figures from UNGRIPP, a group that supports prisoners and their families and campaigns for reform, IPP sentences were given for 107 offences – 3,045 (35%) for violent offences, 2,508 (27.8%) for sex offences, as well as 1,822 (21.6%) for robbery and 448 (5.1%) for fire setting offences. A further 232 (2.7%) were given for acquisitive offences and 11 (0.1%) for drug offences. Of those sentenced 249 (2.9%) were women and 326 (3.7%) were children, including a boy aged 10-11. Nearly a decade after IPP sentences were scrapped, the latest figures from the Ministry

of Justice reveal that on 30 September last year, there were still 1,661 IPP prisoners who had never been released, while a further 1,300 have been recalled on licence.

Lord Blunkett, the Labour home secretary who was the architect of the sentences, has expressed regret about the way they were used, telling BBC Radio 4's World at One recently that the number of people still in prison 'weighs heavily' on him. Giving evidence to the justice committee, which has received more than 500 written submissions to its inquiry, Blunkett said that if he had his time again, he would still have introduced them in order to protect the public. But he admitted that the bill should have 'laid down explicitly' that there had to be 'a very substantial determinate sentence before the IPP could be applied'. He also admitted that funding had not been provided for rehabilitation and said the bill should 'have said explicitly that the measures could not be brought in until the funding had been provided to an adequate level by the Treasury, to ensure that those therapies and courses existed'.

To make matters worse, the number of people being recalled to prison under the terms of IPP has risen significantly in the last five years, increasing by 100%. Calling for 'urgent measures' to deal with this, Blunkett told the committee: 'We are in a really dangerous moment with 1,700 still in prison and 1,300 who have been recalled on licence, with the number being recalled on licence estimated to exceed within a very short period of time those who are still in prison on IPP.' Lack of resources for rehabilitation and delays in parole hearings mean that IPP prisoners continue to languish in jails. The harmful impact on their mental health and wellbeing has been documented in numerous reports from the Howard League for Penal Reform, the Prison Reform Trust and Her Majesty's Inspectorate of Prisons. IPP prisoners experience high levels of anxiety and have rates of self-harm and suicide that are significantly higher than other categories of prisoner, including those with life sentences.

The impact of the sentences on prisoners and their families has been devastating, says Luff, stating: 'I am yet to talk to someone subject to an IPP sentence who does not have a story that is gut-wrenching.' Such sentences, says Sperling, disproportionately disadvantage neurodiverse prisoners, for example those with autism spectrum disorder or learning difficulties. They may find it very difficult to navigate pathways to release and therefore serve more time in custody than neurotypical prisoners. In a written submission to the justice committee, UNGRIPP says the worst element is the 'indeterminate' nature of the sentence, which resembles a 'living death sentence'. It added that prisoners and their families have described that element of the sentence using words like inhumane, torture, torment, horror and despair. The lack of a release date, says Kingham, is 'incredibly hard for many to process' and has resulted in 'significant hopelessness' which often leads to negative behaviour. The clamour for reform has been backed by former justice secretaries Ken Clarke and Michael Gove, as well as probation and prison chiefs.

Giving the annual Longford Lecture in 2016, under the title 'What's really criminal about our justice system?', Gove proposed that the government should use the power. David Blunkett, then home secretary, on a visit to Leeds Prison in 2001. The architect of IPP sentences has said the number of people still in prison 'weighs heavily' on him of executive clemency to release those IPP prisoners who have been in prison for much longer than their tariff. Backing Lord Thomas's proposal, Kingham says the government should re-sentence all the remaining IPPs to determinate sentences with fixed release dates, rather than leaving the release decision to the Parole Board. Another option, says Luff, would be to revise the test that requires the prisoner to show that they are no longer a risk, putting the onus on the Parole Board to prove that they remain so. The LASPO act already provides for this change, which was

backed by Nick Hardwick, the former chairman of the Parole Board.

Campaigners are also calling for reform or removal of the licence conditions and support for IPP prisoners and their families. In evidence to the justice committee, Kit Malthouse, the minister for crime and policing, stressed that the government's first consideration was public protection. He insisted that existing measures were working to reduce the number of IPP prisoners in custody, though he conceded that it 'may well be' that some are never released. An MoJ spokeswoman told the Gazette that the number of IPP prisoners has fallen by two-thirds since 2012. She said: 'We are helping those still in custody progress towards release, but as a judge deemed them to be a high risk to the public, the independent Parole Board must decide if they are safe to leave prison.' She said ministers have no plans to retrospectively alter these sentences, but said the IPP Action Plan is regularly refreshed, to ensure it addresses the challenges faced by offenders serving them. The justice committee hopes to publish the report on its inquiry early this year. Whether its recommendations will be acted upon remains to be seen.

Ill-Treatment of Detainees Who Had Been Interned in the 1970s

Anurag Deb, UK Human Right Blog: One date to rule them all: McQuillan, McGuigan and McKenna [2021] UKSC 55 - In one of its final decisions of 2021, McQuillan, McGuigan and McKenna, the UK Supreme Court addressed challenges to the effectiveness of police investigations into events which took place during the Northern Ireland conflict. The European Court has long maintained that the right to life (Article 2 ECHR) and the prohibition upon torture and inhuman and degrading treatment (Article 3 ECHR) carry with them positive obligations on the state to conduct effective investigations. These "legacy" cases not only draw the Courts into debates over some of the most contentious aspects of the Northern Ireland conflict, in particular the involvement of state agents in killings and the infliction of serious harms upon individuals, but they also pose questions about how human rights law applied in the context of Northern Ireland as a jurisdiction before the enactment of the Human Rights Act 1998.

For reasons of economy, this post will focus on the facts of the McGuigan and McKenna elements of this litigation, which concerned the ill-treatment of detainees who had been interned in the 1970s (while also exploring broader questions which concerned all elements in the litigation). The scope of this ill-treatment, involving the subjection of internees to the infamous "five techniques" (including hooding of detainees to disorient) as part of interrogations, has long been known. Indeed, the resultant case of Ireland v United Kingdom remains a key turning point in the development of the European Convention on Human Rights, demonstrating that the Strasbourg Court would be willing to uphold human rights claims against an important member state even as it sought to tackle political violence. In that decision, although the Court found that the five techniques breached Article 3 ECHR, it discussed them in terms of inhuman and degrading treatment and not torture. Releases of documents by the National Archives (highlighted in a 2014 RTÉ documentary), however, showed UK Cabinet Ministers discussing the extent of the interrogation practices when they were taking place, and led to calls for fresh police investigations into whether there has been a coverup.

An extensive body of decisions, both in the domestic courts and Strasbourg, has highlighted inadequacies with regard to the investigations of allegations against state actors in the context of the Northern Ireland conflict, and so, when the Police Service of Northern Ireland (PSNI) closed its investigations into these allegations based on the released archive materials, officers must have been aware that their decision would be closely scrutinised and it can

have come as little surprise that the case of the "Hooded Men" would once again come before the Courts. The Northern Ireland Court of Appeal nonetheless found that there were serious shortcomings in the PSNI investigation and good reason to quash the decision to call a halt to it. The majority found, at paragraph 114, that it had been focused on the unduly narrow question of 'whether there was express information given to a particular Minister of the application of torture'. In light of the seriousness of the issues at stake for a 'modern democracy' this approach was irrational.

There were, however, important reasons for both the PSNI and the claimants to want the Supreme Court to consider this outcome. While the litigation had been ongoing, the Supreme Court had decided in Finucane that the temporal scope of Article 2 and 3 ECHR effective investigation obligations extended beyond the date on which the Human Rights Act 1998 entered effect in the UK's legal systems in October 2000. In Lord Kerr's leading decision in that case, the obligation extended back to the events of Pat Finucane's murder in the late 1980s. Those who are familiar with some of the salient decisions of the Strasbourg Court on this point will recall that in Šilih v Slovenia, the Court found that the investigative obligation under Article 2 was detachable from its substantive obligation, capable of giving rise "to a finding of a separate and independent 'interference'" and capable of binding a relevant member state in respect of a death occurring before it had ratified the ECHR. These observations were further refined by the Strasbourg Court in Janowiec v Russia, which featured deaths which were not only pre-ratification (from Russia's perspective) but also pre-ECHR.

The claimants in McQuillan, McGuigan and McKenna, in a line of argument which would reshape the legal basis of legacy investigations for much of the Northern Ireland conflict, sought to have these obligations extended to the events of the early 1970s because the activities of the UK authorities in that period had been so at odds with the ECHR values it should have been maintaining as a rights-respecting democracy. The authorities, however, have been equally eager to curtail what are often regarded as burdensome historical investigation obligations. The key question for the Supreme Court was that of the critical date – the date at which ECHR obligations bound authorities at domestic law. The answer to this question had not been settled in previous decisions of the Supreme Court (for example, McCaughey or Keyu). In McQuillan, McGuigan and McKenna, the reach of the mirror principle, which seeks to keep pace with decisions of the Strasbourg Court as far as possible, was deemed to have arrived at its limits in determining the critical date in domestic law. The critical date at Strasbourg is 1966, when the UK accepted the right of individual petition under the ECHR. In domestic law, however, the Supreme Court has now unanimously fixed the critical date at October 2000, when the Human Rights Act 1998 came into force. This had an immediate impact on the McQuillan, McGuigan and McKenna claims, where the triggering events had happened decades before Pat Finucane's murder, which had already occurred more than 10 years before October 2000. It meant that the claimants' arguments invoking the Brecknell test – obliging further investigative approaches in a previously investigated case, with a sufficiently plausible or credible new allegation, evidence or information – fell in their entirety.

Like the Northern Ireland Court of Appeal, the Supreme Court acknowledged the significance of the subject matter of these cases. At paragraph 186 the Court accepted that McGuigan and McKenna concerned the UK's security forces being involved in practices which would today be recognised as torture. All seven Justices recognised that, in the words of Lord Hoffmann in A (No 2), the European Court had, in Ireland v United Kingdom, delicately

refrained from characterising various interrogation techniques used by the British authorities in Northern Ireland as torture. But this delicacy towards the United Kingdom in 1978 was, and remains, significant (at paragraph 190), presenting the difficulty that in 1978 the Strasbourg Court held that the treatment to which the Hooded Men were subjected in 1971 was not to be characterised as torture. Whether it would be characterised as torture by the standards of 2021 is, in our view, strictly irrelevant to the application of the Convention values test.

The Court did not, in reaching this conclusion, need to depart from its decision in Finucane, but at the very least it was marking out the events of the murder of Pat Finucane in 1989 as being as far as the investigation obligation could be stretched (no matter how serious the allegations against the state). Although this discussion took up much of the judgment, the Supreme Court was still persuaded of the need to quash the decision to curtail the investigation, but on even narrower grounds than those accepted by the Northern Ireland Court of Appeal. The archival materials had revealed that Merlyn Rees, Secretary of State for Northern Ireland between 1974 and 1976, prepared a memo for the Prime Minister in 1977 in which he acknowledged that It would have been better had I referred to a decision to use interrogation in depth in Northern Ireland in 1971/72 rather than referring to a decision to use methods of torture at that time. The Court found, at paragraph 248, that the efforts in the investigation to sweep this comment under the table were unacceptably lax; the subsequent correspondence showed is that Mr Rees acknowledged that it was preferable to avoid referring to the use of the five techniques as "torture" because to do so contradicted the UK Government's publicly stated position.

Rees was not moving away from the language of torture because he did not believe the five techniques amounted to torture, but because he was concerned about the repercussions of discussing events in those terms. This shortcoming was crucial to the Supreme Court accepting that curtailing the investigation was unlawful. It is worth, however, emphasising the narrowness of this position. The Supreme Court explicitly recognised that there were good reasons for not investigating in this case, but that the PSNI had not properly based its decision on these (at paragraph 245): In the present case it could not be said that the decision of the PSNI made on 17 October 2014 not to take the matter further was, in itself, irrational. Given the passage of time since the ill-treatment of the Hooded Men in 1971, the fact that those who authorised the use of the five techniques were either dead or very elderly, our conclusion in this judgment that the new material publicised by the RTÉ documentary did not add to a significant extent to what was known already at the time of the previous investigation in 1978, and the many competing demands on police resources, a decision could rationally have been made not to undertake a further investigation. The decision to take no further action was not based, however, on any of the matters just mentioned. Its basis was stated to be that the investigation … had not identified any evidence to support the allegation that the British Government authorised the use of torture in Northern Ireland.

It is, of course, in the nature of quashing a decision on such a basis that the same end can be reached if the investigation is reopened and then once again closed, but this time for valid reasons. And the Supreme Court can be said to be actively supplying such reasons to the PSNI. This victory in the Supreme Court will thus provide little practical support for the claimants' ongoing efforts to have the circumstances of their case reinvestigated.

The impact: On one view, the question of the critical date allows for only one answer – if broad ECHR obligations in domestic law arose because of the Human Rights Act, then such obligations cannot (generally) be asserted in respect of a time before the Act's existence. The ten-year extension beyond the October 2000 date opened by European Court jurisprudence in a limited range of cases is therefore tolerated only grudgingly, and the Supreme Court's own dart beyond that time frame in Finucane (unanimous and recent as that decision was) is now being received with the utmost scepticism. This new dispensation, so different from the attentiveness to the seriousness of the implications of these cases for the United Kingdom as a rights-respecting democracy displayed in Finucane, is evident in much of the Supreme Court's judgment in McQuillan, McGuigan and McKenna (paragraphs 147-168).

In reaching this conclusion, the Court has also shut the door on most, if not all, inconclusive investigations into suspicious deaths, horrific injuries and violent offending that characterised much of the Northern Ireland conflict before 1990 (i.e. 10 years before the Human Rights Act came into force). This period of some two decades includes, by some margin, the deadliest years in the entire conflict. Moreover, the Supreme Court's decision comes at a fraught time in legacy matters. With the UK Government having floated drastic legislative proposals to end criminal prosecutions, existing investigative processes and 'judicial activity' in civil cases relating to the conflict, McQuillan, McGuigan and McKenna appears ominously significant. The Supreme Court, perhaps taking its cue from these legislative plans, would appear to be taking its own steps to draw limits around the legal basis for legacy litigation.

20 Years of US Torture – and Counting

Human Rights Watch: Twenty years after Guantánamo Bay detention operations commenced on January 11, 2002, a new report assesses the massive costs of US unlawful transfers, secret detention, and torture after the September 11, 2001, attacks. The report, from the Costs of War Project at Brown University's Watson Institute and Human Rights Watch, outlines how these abuses trample on the rights of victims and suspects, create a burden to US taxpayers, and damage counterterrorism efforts worldwide, ultimately jeopardizing universal human rights protections for everyone.

"Around the world, Guantánamo remains one of the most enduring symbols of the injustice, abuse, and disregard for the rule of law that the US unleashed in response to the 9/11 attacks," said Letta Tayler, an associate Crisis and Conflict director at Human Rights Watch and the report's co-author. "The US government's reliance on deeply flawed military commissions, along with other due process failures, has not only violated the rights of the men held at Guantánamo. It also has deprived survivors of the September 11 attacks and families of the dead of their right to justice."

The report notes that: The US has held no one accountable for the CIA orchestrating a system of undisclosed "black sites" throughout the world in which it secretly detained at least 119 Muslim men and tortured at least 39. US has largely resisted accountability for abuses at its military prisons in Afghanistan and Iraq, where it detained thousands of Muslims including several women and boys, and at Guantánamo Bay, Cuba. US military is still detaining 39 Muslim men at Guantánamo, 27 of them without criminal charges, and judicial proceedings are so flawed that none of the five 9/11 suspects have been brought to trial. The prisoners are among at least 780 foreign Muslim men and boys whom the US has held at Guantánamo since January 11, 2002. US has spent more than $5.48 trillion on the "War on Terror" including $540 million a year just to detain prisoners at Guantánamo.

While unlawful US detentions have gradually ebbed, civilian deaths and injuries from US-led strikes in the "War on Terror" skyrocketed under Presidents Barack Obama and Donald J. Trump, also without accountability. The "extraordinary renditions" (unlawful transfers from one country to another), secret detentions, and torture have damaged the international human rights system, Tayler and her co-author, Elisa Epstein, said. By committing abuses with impunity, the US has made it easier for countries such as Russia, Egypt, and China to criticize Washington and

deflect international condemnation of their own human rights violations. US counterterrorism partners have replicated the Guantánamo model by detaining thousands of people in dire conditions in Iraq, northeast Syria, Nigeria, Egypt, and elsewhere for alleged terrorism offenses. Those detained, often without charge or trial, include civil society members, suspects' relatives, and children who are victims of armed groups. The report also cites instances in which unlawful rendition and detention and torture have undermined US security goals. The Islamic State (ISIS) and other armed groups have used US abuses as a propaganda tool to lure recruits and bolster their narrative that Washington and its Western allies are waging a crusade against Muslims.

The authors call on the Biden administration to close the Guantánamo prison and enact significant legal and policy reforms to end further abuses. Reforms should include far greater transparency about crimes that US forces committed and accountability at the highest levels, as well as robust efforts to address religious, racial, and ethnic bias in counterterrorism efforts. "This report lays out a comprehensive assessment of the many unconscionable costs of US torture and illegal detentions and renditions of Muslims over the past 20 years since 9/11," said Stephanie Savell, co-director of the Costs of War Project. "This is a moral failure of epic proportions, a stain on the nation's human rights record, a strategic blunder, and an abhorrent perpetuation of Islamophobia and racism."

Failures in Support Before the Death of Young Asylum Seeker Alexander Tekle

INQUEST: At the recent inquest into his death, the Coroner found that opportunities were lost before and after Alex's 18th birthday to provide him with the help and support that he required. In the months before his death, Alex had significant struggles with alcohol addiction and social services did not put in place effective strategies to address these issues. By December 2017, Alex was profoundly worried about his immigration status and was impacted by the death of a close friend by suicide. Alex took his own life on 6 December 2017 whilst severely intoxicated.

Alex's inquest follows three other inquests relating to the deaths of young Eritrean asylum seekers. These four friends all took their lives within a 16-month period after arriving in the UK. In recent years, there have been an alarming number of suicides among teenagers who arrive in this country as unaccompanied asylum-seeking children, highlighting issues with how people like Alex are looked after by local authorities. Alex loved his family and had a great sense of humour. Alex's father said that Alex thought things would finally get better for him when he arrived in the UK after an incredibly difficult journey. Alex was a well-loved and sociable person and dreamed of becoming a professional cyclist.

In his summing up, the Coroner made the following points: 1) The degree of care that Alex received was affected by issues relating to his age. As a result of this age dispute, Kent County Council were "less willing than they might have been to battle to keep Alex within their care". Alex was placed in adult Home Office accommodation when he was still a child and Kent Council were "positively encouraging and agitating" the move into Home Office control. 2) Alex was then brought to the attention of the London Borough of Croydon. Both Kent County Council and Croydon Council failed to recognise how complex Alex's case was. Whilst under the care of Croydon, Alex was allocated an inexperienced social worker who "was not as engaged with him as she could or should have been". They were unable to recognise his "destructive spiral". 3) Whilst there were people within social services who provided Alex with a good deal of support, these people were extremely overworked. After Alex turned 18, he needed much more focused attention and support in order to engage with services. 4) When episodes of self-harm became apparent in November 2017, "the proper position should have been that social services should have recognised that this was a problem far bigger than

they could cope with". At this stage, it was "essential" to get Alex into a rehabilitation programme to address the dangers, but this did not happen and assessments of his needs were not adequately carried out. 5) Alex's mental health was described as not seriously bad enough to warrant forced treatment but was causing him a real risk. This meant that he fell through the net of certain provisions. 5) The Coroner added that he was "quite sure" that Alex's immigration status was a constant concern for him and added to the stress that he was experiencing. During the period of time that he was in the UK, he would have been very confused and concerned about what was going to happen to him.

On Friday 7 January 2022, the Coroner concluded that Alex died by "suicide while the balance of his mind was affected". In the accompanying narrative conclusion, the Coroner recognised that there were lost opportunities to intervene at an early stage to help Alex. The problems became most acute when he turned 18 and there was a failure to recognise the vital importance of Alex being supported and accompanied to attend appointments to assess him for a rehabilitation programme. The Coroner has given Croydon Council 14 days to make submissions on whether a protocol has been put in place on how to react to a child in care or care-leaver self-harming and on further training for social workers. If this has not happened, the Coroner will write a Prevention of Future Deaths Report recognising the risk of similar deaths occurring. Mr. Tecle Tesfamichel, Alex's father, said: "Listening to what happened to Alex when he was in the UK has been very hard this week. He made an incredibly difficult journey and he thought that things would finally get better for him in the UK. Hearing that Social Services, who were supposed to be looking after him, were inexperienced and didn't care for him in the way they should have was shocking. Kent Social Services disbelieved him when he said he was a child, and his social worker at Croydon Social Services decided that he was an adult. This was shocking to me; I thought Social Services were there to take care of vulnerable children. Alex was a traumatised child who needed help, and he shouldn't have been distrusted and undermined by workers who were there to support him.

When Alex self-harmed and said he wanted to kill himself numerous times, I don't understand why the professionals in his life didn't take him to emergency services immediately. I know he had problems with alcohol and his life was chaotic, but I think this was a cry for help. Children who are seeking asylum need more care and support, and although people tried to help my son, he was failed at the crucial time. My son Alex was loving, caring and had a great sense of humour. He loved his family, especially his mum, who he loved more than you can imagine. I miss him every day." The family's legal team (Olivia Anness and Christina Bodenes of Bhatt Murphy, and Jamie Burton QC of Doughty Street Chambers) said: "As acknowledged by the Coroner, Alex's case is a deeply tragic one. The harrowing evidence heard this week showed that time and time again a child - who arrived in the UK alone seeking refuge and safety - slipped through the nets. Social services missed vital opportunities to get Alex the support he needed, and during the inquest it became powerfully clear that the most vulnerable children and young people in our society are not being adequately safeguarded, partly due to systemic underfunding of local authorities and lack of resources.

Alex was one of four Eritrean young people from the same friendship group, who arrived in the UK as children seeking refuge, to have taken their lives in close succession. As other children like Alex arrive on our shores seeking safety, we look to local authorities and the Home Office to take urgent steps to prevent such tragedies happening again." Benny Hunter, a friend and advocate of Alex, said: "Many social workers, middle managers and Home Office bureaucrats failed Alex. Every day I fought to get him support, I was witness to gate keeping of services, high levels of suspicion about his general character and a general lack of care for Alex's wellbeing. There is clear evi-

dence of racism and xenophobia in the way Alex was treated. The wider context of this is that the UK government has cut the budgets available to local authority children's services to the bone. This government has scapegoated asylum-seekers and attacked unaccompanied children as frauds. Border violence is currently used as a legitimate means of immigration control. The logic of the 'Hostile Environment' is so entrenched that some social workers feel it is their job to protect over-stretched services from intrusion rather than protect children from harm. Alex was my little brother. He was deeply caring. He was fearless. Everybody who met him, wanted to get to know him and be his friend. He loved his friends. He loved his mother and father. He wanted to study, to improve his English, to give back to his family. He will be forever missed by his parents, his older brother, his two younger sisters, and those of us who were his friends. We want to make sure this never happens to anyone ever again. I will continue to remember him every day."

INQUEST Caseworker, Nancy Kelehar, said: "The Coroner has rightly recognised significantly failings in Alex's care. Both of the councils involved in looking after Alex were unable or, at worst, unwilling to provide the support that he desperately needed.The hostile environment for migrants and the under resourcing of public services creates the conditions in which young people who have experienced significant trauma are unable to access sufficient support, despite the duty of care owed to them. Their trauma is compounded by the period spent in limbo not knowing what will happen to them. The deaths of young people like Alex, who were seeking safety and compassion after fleeing persecution as children in Eritrea, are at the sharpest end of the consequences of Home Office policy. All of those who have died or suffered in similar circumstances deserved better from this country."

HMP Styal: Prisoner Who Had Stillborn Baby 'Will Never Forgive Jail'

Sima Kotecha, BBC News: A prisoner who gave birth to a stillborn baby in the toilet of a cell has said she "will never forgive the prison" for the "horror death". Louise Powell, 31, who did not know she was pregnant, said she begged for an ambulance before her baby died at HMP Styal in Cheshire in 2020. She told BBC Newsnight she was left alone when she was "crying for help". The Prisons and Probations Ombudsman found there were "missed opportunities" to identify her urgent clinical needs. Its report said prison staff and nurses should be given early labour training. It also said the duty nurse made "a serious error of judgment" by not visiting her after they were contacted three times about the severe pain Ms Powell was in. In a statement, Ms Powell said: "The pain of Brooke's death will never leave me. I cannot forgive the prison or healthcare for leaving me when I was calling for help and I felt like I was dying. I was having a medical emergency and should have been urgently helped. Instead I was left. I want justice for Brooke so no other woman has to go through this horror in prison".

Prisons Minister Victoria Atkins said: "The tragic events detailed in this report should quite simply never happen to any woman or child, and my deepest sympathies remain with the mother. We have already implemented the report's recommendations and important improvements have been made to the care received by pregnant women in custody. But there is clearly much more to do to ensure expectant mothers in prison get the same support as those in the community - something I will continue to prioritise." NHS England, which commissions healthcare in prison, has apologised for the loss of the baby and said it had "taken prompt action on the recommendations in the report". The Ministry of Justice said it had also made improvements and was looking at how "we can better screen for pregnancy in jails so no woman falls through the cracks".

The report which refers to Ms Powell as Ms B said: "The duty nurse did not review Ms B's record sufficiently or go to see Ms B as she should have done. She failed to fully assess Ms B's clinical situation, and this was a serious error of judgement". The document details how the Supervising Officer (SO) on Ms Powell's house block acted appropriately to alert the nurse to her condition and update her when the situation changed. 'Lessons learned' An hour or so before Ms Powell gave birth, the report said the SO wrote in the wing observation book: "[Ms B] is having very bad stomach cramps and is bleeding. Hotel 1 [Nurse 2, the duty nurse] contacted three times but would not come out to see her. Tasked night staff with coming to give pain relief and appointment made for triage tomorrow. However it stated that all members of staff who helped her during and after the pregnancy acted "with humanity and to the best of their abilities". Ms Powell was sent to the prison in March 2020 after admitting common assault, racially-aggravated harassment and criminal damage. On her first day she told staff there was "no chance" she was pregnant. However, her lawyer Jane Ryan said prison staff were aware she had not had a period for four to five months and never followed it up. The health provider to HMP Styal said "it fully accepts the findings", and is "fully committed to ensure that lessons are learnt and that recommendations in the report are acknowledged and actioned following this tragic incident".

EU Citizens Fighting Deportation Keep Full Residence Rights

The Home Office has conceded that EU citizens being lined up for deportation retain full residence rights in the meantime. This is so long as they have applied to stay in the UK under the EU Settlement Scheme and are protected by the Brexit Withdrawal Agreement. The case involved a 19-year-old Portuguese citizen who has lived in the UK all his life but received a four-year prison sentence in 2018. He applied to the Settlement Scheme before the 30 June 2021 deadline and was refused; an appeal is pending. The Home Office initially said that, if released on licence, he would be unable to work or claim benefits. That is because Regulation 23(9) of the EEA Regulations 2016 terminates a person's right to reside once a removal decision has been made, making them subject to the hostile environment for unauthorised migrants.But the government has now settled a judicial review pointing out that the Withdrawal Agreement overrides the EEA Regulations in these circumstances. The High Court's declaration to that effect is available from Doughty Street Chambers, along with a more complete summary of the legal issues. This is an important concession for people being targeted for removal over pre-Brexit criminal offending. Both sides agree that there is "likely to be a significant number of similarly affected people". The case also reinforces the importance of EU citizens living here before 31 December 2020 availing of the option to apply late to the Settlement Scheme in order to invoke its protections.

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