Written evidence from the Centre for Criminal Appeals (PPP0021)

About

1. The Centre for Criminal Appeals is a registered charity and law practice devoted to investigating and litigating miscarriages of justice.

2. Operational since 2014, the Centre represents prisoners where evidence suggests they have been either wrongly convicted or unfairly sentenced, investigating and preparing such cases for presentation to the Criminal Cases Review Commission and/or Court of Appeal.

3. By sharing the lessons learned from its casework, the Centre aims in the long-run to encourage systemic reforms which improve the accuracy and fairness of England and Wales’ criminal justice system.

4. Further information about the Centre’s work can be found at:

www.criminalappeals.org.uk

Submissions

5. We hope that the Justice Committee will find these submissions helpful to its Prison Population 2022 inquiry by shedding light on three groups of prisoners who we believe the Committee should consider as part of its inquiry:

- People imprisoned for non-payment of council tax.
- Women prisoners.
- Wrongly convicted prisoners.

People imprisoned for non-payment of council tax

6. Around 100 people a year are imprisoned for up to a maximum of 90 days in England and Wales for failure to pay council tax debts. Our casework and research makes clear that unacceptably often in such cases the person imprisoned has not deliberately refused or neglected to pay. Rather, they have simply been unable to afford to pay, prioritising basic living costs instead. In such cases, people are ultimately being committed to prison for the ‘crime’ of being poor – as they were in 18th and 19th century debtor’s prisons.
7. The Centre has assisted in securing the release from prison of three women jailed for falling behind on their council tax payment. One of those women was Melanie Woolcock, whose case was widely reported in the media. Ms. Woolcock was a single mother who had become unemployed and understandably prioritised her rent, gas, electricity and food bills.

8. Ms. Woolcock had served 40 days of her 81-day sentence before the Centre was able to help secure her release. The High Court subsequently ruled that she had been unlawfully jailed as the magistrates’ court had failed to assess her financial means and had no basis for concluding she failed to pay due to culpable neglect.

9. The failings which led to Ms. Woolcock’s unlawful imprisonment are not uncommon. Helen Ball, a volunteer at the Centre who research this subject, was able to identify 145 cases since 1980 where a person’s committal to prison for non-payment of debt (including fines, council tax and the community charge) was ruled unlawful in the High Court. She found that in these cases:

   Magistrates have often incorrectly concluded that there’s been culpable neglect or a wilful refusal to pay. Moreover, magistrates have regularly failed to properly assess a person’s ability to pay and to consider reasonable alternatives to prison.

10. We would urge the Justice Committee to address the practice of imprisoning people for debt as part of its inquiry.

11. We hope that amongst the Justice Committee’s recommendations will be steps that will ensure the prison population in 2022 will not include people jailed for being unable to afford to pay debt.

Women prisoners

12. We would also ask the Justice Committee to look at the specific issue of women in prison. The work that we have done through our Women’s Justice Initiative has illustrated that women in prison are often there because of systemic injustices within the criminal justice system.

13. Categories of women suffering from multiple and severe disadvantage who we seek to work with include women imprisoned for minor, non-violent offences, women sent to prison rather than being given the mental health treatment that they require, women imprisoned for crimes which were an act of self-defence against an abuser and innocent women whose ‘crime’ was in fact accidental or the result of natural causes.

14. It is over 10 years since Baroness Corston produced her in-depth study into this area and yet many of the recommendations contained within that have yet to be implemented.
15. We strongly urge the Committee to consider the gender-specific issues facing women in the criminal justice system when considering the scope of the Prison Population 2022 inquiry.

Wrongly convicted prisoners

12. No one can put an exact figure on how many of England and Wales’ roughly 85,000 prisoners are innocent of the crimes of which they have been convicted. However, history makes painfully clear our criminal justice system does not always get it right. Wrongful convictions do happen and have devastating and life-long consequences for those who experience them, as illustrated powerfully by the recent BBC documentary Fallout.

13. In recent years, the problems causing innocent people to be sent to prison appear to have become more acute:

- Police are now failing to meet their disclosure obligations in 40.7% of cases, increasing the risk that juries will miss out on hearing important exculpatory evidence.

- Fears that the 2012 closure of the Forensic Science Service could lessen forensic science standards may be being realised, with as many as 10,000 cases affected by alleged results tampering at Randox Testing Services.

- Cuts to criminal legal aid have struck at the principle of equality of arms by providing fewer resources for the defence to subject claims made by the police and prosecution to scrutiny.

14. We can all agree that innocent people should not be in prison. As such, it seems reasonable that any strategy for clearing the prison population of people who do not deserve to be there should include ensuring that our present system for rooting out wrongful convictions is satisfactory.

15. Sadly, recent statistics and our casework experience suggest this is not currently the case. The Criminal Cases Review Commission, the statutory body responsible for referring unsafe convictions to the Court of Appeal, last year referred just 12 of the 1,563 cases it reviewed. This referral rate of 0.77% in 2016/17 is way down from the CCRC’s historical average of 3.3%.

16. The reasons for this drop are likely in part down to the non-adoptions of recommendations made by the Justice Committee in its 2015 report on the CCRC. The urgent £1m funding boost called for has not materialised; the CCRC has not adopted a less cautious approach to sending cases to the Court of Appeal; and the
Law Commission has not considered a change of law that would encourage the Court of Appeal to quash more convictions where there are serious doubts about the verdict.

17. It is important to note prisoners maintaining innocence can remain stuck in the prison system longer than those who admit their guilt, assuming as is frequently the case that their conviction is not swiftly quashed. Offending behaviour programmes often require a prisoner to admit guilt, which of course an innocent person cannot do. Failure to complete such programmes slows down or even stalls a prisoner’s progression through their sentence plan, meaning those protesting their innocence are likely to spend longer in prison.

18. We would therefore urge the Justice Committee not to omit consideration of wrongly convicted prisoners as part of its inquiry. Pressures on the prison population can be reduced by making our mechanisms for rooting out unsafe convictions more effective – with enormous benefit for victims of miscarriages of justice and their families. Such efforts would also boost public confidence that our criminal justice system is capable of acknowledging and addressing its mistakes.

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