



Home Affairs Committee

Oral evidence: [Female genital mutilation](#) , HC 1091

Tuesday 25 March 2014

Ordered by the House of Commons to be published on 25 March 2014

[Written evidence from the witness](#)

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Members present: Keith Vaz (Chair), Ian Austin, Nicola Blackwood, James Clappison, Michael Ellis, Paul Flynn, Julian Huppert, Mark Reckless, David Winnick.

Questions 73-124

Witness: **Alison Saunders**, Director of Public Prosecutions, Crown Prosecution Service, gave evidence.

Q73 Chair: I refer all those present to the Register of Members' Financial Interests, where the interests of members of this Committee are noted. If no other interests need declaring, I welcome the Director of Public Prosecutions to this session and remind those present that this is a continuation of the Committee's inquiry into female genital mutilation. Ms Saunders, I congratulate you most warmly on behalf of the Committee on your appointment as the DPP.

Alison Saunders: Thank you.

Q74 Chair: Was this a long-held ambition of yours to end up as Director of Public Prosecutions?

Alison Saunders: I joined the service in 1986 so it has always been an aspiration to get that far and I think it is a good reflection on the service that we now have our first internal appointment.

Q75 Chair: Indeed, and the first woman DPP.

Alison Saunders: The second.

Q76 Chair: The second, of course, yes, the second woman DPP. I also congratulate you on announcing the first prosecutions as far as FGM is concerned. What prompted you after all these years? I know you have been DPP for only a short time but suddenly—and I am not saying that we are ungrateful—just days before you appear the Select Committee, you announce the first prosecutions. What prompted these prosecutions now?

Alison Saunders: The fact that we have had the evidence supplied to us that has enabled us to bring a prosecution, it is as simple as that. We have been for some time proactively working with the police to try to get to the stage where we could bring a prosecution, but you cannot bring a prosecution unless you have the evidence and we have not been able to until this case was referred to us. We have been able to work with the police to build it and make it as strong as we possibly can. The decision was made last week that there was sufficient evidence and obviously it was in the public interest to bring the prosecutions.

Q77 Chair: Of course. I do not know whether you have seen the article in today's *Independent* by Dr Erskine?

Alison Saunders: I have, yes.

Q78 Chair: Dr Katrina Erskine, who practises at the Homerton Hospital, basically accuses the CPS of a political judgment because of these hearings, because of what is happening in the community. The decision was taken—because you, after all, were Chief Prosecutor for London for five years or so before you became the DPP.

Alison Saunders: I was.

Q79 Chair: You are not telling this Committee that the police did not refer any previous cases to you, because we have been told that 144 cases were referred by the police to the DPP's office and no action was taken, or perhaps you can give us more accurate figures?

Alison Saunders: I am not sure I recognise those figures.

Q80 Chair: Perhaps you could give us some figures.

Alison Saunders: We had certainly no files referred to us before 2000 and since then we have had very few. We have had 11 referred to us in the past two years or so and of those we have now made decisions in relation to five cases. Not only did we decide on a prosecution last week but we also decided there was no further action to be taken in relation to four other files that came before us.

Q81 Chair: Basically, you are telling this Committee that it is not that you were not willing to prosecute. It is that the numbers of referrals have been so low from the police. You have only had 11 since 2000.

Alison Saunders: Yes. As far as I know in the last two or three years. I do not think we kept figures before then. Some of those 11 are re-reviews of ones we looked at that had been referred to us before and only a small proportion of those, I think it was four or six.

Q82 Chair: That sounds like a very low figure bearing in mind this Committee has been told that 66,000 women—and this is an estimate, we do not know precise figures—have been subjected to FGM. 11 sounds like a very small figure.

Alison Saunders: It is a very small figure, but as far as we are aware, we did not keep records on it before two or three years ago. We are not aware of a number such as you have just mentioned, so we think there have only been 11.

Q83 Chair: What do you think the problem has been? It seems that there is a lack of referral. Is it the fact that they are not reported by members of the medical profession? Where do you think the problem lies?

Alison Saunders: I think there are a number of issues. One is that, and I think my predecessor is on record as saying this, if you wait for the archetypal young girl to come through the door to tell you about what has just happened to her, that her family have put her through, that is not going to happen. There was a recognition that we ought to be far more proactive about it, so we have been working with the police to look at other ways we could lead, or they could lead intelligence-led investigations that might help. There has also been a lack of referrals from professionals through to the police, because that is another avenue. All those things combined probably meant that the referrals to the police have been low and then the referrals on to the CPS have been extremely low over that time.

Q84 Chair: Would you like to see a mandatory requirement on health care and education professionals to make it statutorily something they must do? If they see this happening, if they see a woman who has been mutilated in this way, they ought to refer that immediately to the police. Would you like to see that happen?

Alison Saunders: Yes, and I expressed that in writing.

Q85 Chair: In your evidence to this Committee?

Alison Saunders: Yes, and also I have written to Ministers to suggest a number of things that could be done to assist in building prosecutions and moving it forward.

Q86 Chair: When did you first write to Ministers and tell them you felt there should be a change in the law, because up until now, of course, everyone has talked about the law but people have questioned why it has not been the subject of prosecutions. When did you first write to Ministers about it?

Alison Saunders: In February of this year and that is as a result of some of the cases we have looked at and some of the lessons that we have learned from those cases. I think a reporting would be good. At the moment, if health care professionals or educational professionals see children who they fear are at risk, they should report that anyway because that is child abuse and there is a mandatory requirement to report anyway. Sometimes it gets confused because people do not necessarily recognise it as child abuse and sometimes there may be concerns about reporting it. That should happen anyway, but if you make it mandatory in statute then there is no confusion.

Q87 Chair: Those who have given evidence contrast our prosecutors with the French prosecutors. You have probably seen a quote from the former Justice Minister Rachida Dati who said in *The Guardian* earlier this year, "This mutilation has no foundation in any religion, philosophy, culture or sociology. It is a crime". Why have the French done so much better than we have done in respect of prosecutions?

Alison Saunders: One of the big differences the French have is a mandatory physical examination of young girls. We do not have that, so part of the way they gather their

evidence is because they have that mandatory examination. You can see when a girl has not, and then has been, and they have the evidence there.

Q88 Chair: What age do they do that?

Alison Saunders: I am not entirely sure about what age but certainly some of the information we have is that—

Q89 Chair: Do you think we should do that?

Alison Saunders: I think that would be quite a big step to take and it should be very carefully considered before that.

Q90 Chair: Presumably you have considered it carefully if you have written to Ministers and had a view on some other aspects. Do you think we ought to move into that position?

Alison Saunders: I do not think that is a matter for me because that is a wider policy issue, probably for Parliament to debate and for society to consider.

Q91 Chair: If you are looking for more prosecutions, and presumably you are—you cannot be looking for fewer prosecutions because there have been so few—do you not have a view about whether this would be helpful, having looked at the French system?

Alison Saunders: Obviously, if we had mandatory medical examinations, that would reveal more evidence. It is quite a large step to take and it may be there are other ways we can look at in order to increase the number of prosecutions.

Q92 Mark Reckless: Is it useful to have this specific legislation of FGM rather than charging under other legislation, such as the Offences Against the Person Act?

Alison Saunders: Where the legislation is particularly useful is the extra territorial provisions because if we were to charge under, say, assault—as we could do; some of the assault offences—that does not have extra territorial jurisdiction, so having that gives you the ability, if girls are taken abroad, to then prosecute.

Q93 Mark Reckless: Within jurisdiction?

Alison Saunders: Within jurisdiction, we can look at other offences such as assault cases. It does give us an extra impetus, although we have not had any prosecutions so far, but having the FGM legislation does concentrate the mind.

Q94 Nicola Blackwood: I just wanted to take you back a little bit to the criticisms of Dr Erskine, who seems to imply that in your prosecution there has been a confusion between FGM and normal post-labour treatment. Do you think there is any chance that that is what has occurred in the case of your prosecutions?

Alison Saunders: We have looked at the evidence and we have decided that there is sufficient evidence on which to found a realistic prospect of a conviction. Part of that, the

things we will take into account, is what was necessary for a woman's physical or mental health.

Q95 Nicola Blackwood: You have already been discussing with the Chairman the distressing figures of 66,000 having undergone FGM, 24,000 girls under the age of 15 at risk and the very low number of referrals you have received. But already back in December 2012 this was something your predecessor was concerned about and there was a lot of debate about that. That is why he brought in the FGM Action Plan and the action points of that were, "To gather more robust data on allegations of FGM so the scale of the problem could be gauged, to identify which issues have hindered investigations and prosecutions, to explore how other jurisdictions prosecute this crime and to ensure that police and prosecutors work together closely from the start of investigations". That is some time ago now and I just wondered what progress has been made on those points so far.

Alison Saunders: Lots of progress. We have now signed a protocol that was led by London when I was Chief Crown Prosecutor. We signed a protocol with the police in relation to what we would each do for FGM prosecutions and investigations. That has now been signed by all 43 police forces with the CPS. We now have 13 prosecutors—we are split up into 13 areas—appointed who are there to be specialists in relation to FGM, talking to police colleagues, making sure that we are giving advice early if we can, making sure that we are raising awareness in dealing with that.

In relation to the data collection, there are other strands going on because these are not all for the CPS and are not all CPS actions. The police are dealing with some data collection to have a look at where the prevalence is, and the Met is leading the way on that. I am sorry—I have forgotten the other question. We have looked at other jurisdictions. We have looked at Spain, where they have had two prosecutions of two parents, who have been convicted, and we are also following a case in New Zealand where they are currently undergoing their first prosecution as well.

Q96 Nicola Blackwood: What are those countries doing that is more effective than we are doing?

Alison Saunders: The Spanish one is their first prosecutions for both parents, and the case there is where again the child had had a medical examination and then a subsequent one that showed she had FGM in between. The evidence was that they had not left the country, therefore the inference was that the FGM had been committed in Spain while under the control of the two parents. That rather accords again with something we may want to look at, which is making a more express parental responsibility for the child. We already have it in relation to child neglect or where a child dies, where the parents are specifically made responsible for that and they failed to protect the child and should have known about the risk to the child. That is something we can perhaps look at in relation to FGM and making parents specifically responsible.

Q97 Nicola Blackwood: I still find it a little bit difficult to understand how there are so many that you believe have experienced FGM and yet there is still such an enormous bottleneck of referrals to the police and even fewer referrals through to you. I believe the figure of referrals to the Met was over 100 and still nationally referrals to the CPS are 11 since 2000. It cannot simply be a general, "We just have to encourage doctors to refer". There

has to be something a bit more solid than that because the FGM Action Plan has been in place since 2012.

Alison Saunders: It was updated in 2013, so we have subsequent actions and we have now been working on a lot of those actions. You are absolutely right and that is why we have implemented the protocol and that is why we have appointed 13 prosecutors to lead in FGM. We cannot prosecute unless we have the evidence, and we need to work with the police on that. How do we obtain that evidence? We have been working with them around some of the covert operations that are ongoing in London to try to do that, but unless we have the evidence and the cases referred to us, I think we are doing as much as we possibly can.

Q98 Michael Ellis: Director, you have seen what the Solicitor General has said on this subject today in *The Times* newspaper. He said that the law on female genital mutilation is full of loopholes and it should be changed. In a nutshell do you agree with him that deficiencies in the law as it currently exists are holding you back from prosecuting these cases?

Alison Saunders: There are some loopholes that are certainly holding us back. For example, the residency condition—

Q99 Michael Ellis: Just on that, if I may, does the residency condition currently mean a person has to be resident in the United Kingdom and not just visiting?

Alison Saunders: Yes.

Q100 Michael Ellis: Would you prefer the law to change so that even visitors staying for a finite period in this country could also be subject to prosecution if it were discovered that this offence had taken place outside the jurisdiction?

Alison Saunders: Yes. Someone who is on a student visa perhaps would not be covered by the legislation and indeed we have had one case that, had we had the evidence to prosecute, we could not have done because the parents and the child were on temporary visas when they were in this country.

Q101 Michael Ellis: If that could be changed, that would help?

Alison Saunders: Yes.

Q102 Michael Ellis: Would it also help if the law was changed—as some laws are written, to permit an offence—by the use of the word “permitting”, permitting an act to take place? That would strengthen the law as it currently exists, would it not? It would mean that if a parent had not acted in a direct way but merely permitted someone else to act to commit a female genital mutilation, you would be able to prosecute if the law changed to allow permitting.

Alison Saunders: Yes, and there is a very good example for that under section 5 of the Domestic Violence, Children and Victims Act.

Q103 Michael Ellis: It exists elsewhere but it does not exist in this offence at the moment?

Alison Saunders: Yes.

Q104 Michael Ellis: Thirdly, would it be helpful to have criminal sanctions or would it be necessary to go as far as criminal sanctions against medical professionals or others, social workers, for example, who might be aware and not report it? You said in an answer to the Chairman that people are under a duty in the professional world if they come across child abuse. This seems to fall outside the scope of those circumstances at the moment, so would it be helpful to have a sanction? Would it be sufficient, for example, to have a regulatory sanction, something that could be dealt with by the professional bodies of the people involved rather than involve the criminal process? What do you think about that?

Alison Saunders: I think that would be a very good idea, certainly making it a requirement to report so it is very clear would help. Then, if it is a regulatory sanction that would be—

Q105 Michael Ellis: Thank you. Just to clarify, that would not necessarily need the involvement of the Crown Prosecution Service there? It could be the medical professional body or the nursing professional body that would say you have not done something you should have done?

Alison Saunders: Yes.

Q106 Dr Huppert: Ms Saunders, can I just turn to how a prosecution would work? I do not mean you to talk about the details of particular cases. Obviously, in a majority of cases, the victims would be very vulnerable and might be very reluctant to testify. What are the prospects of getting a prosecution without the victims or survivors testifying, or would you have to make sure they could give evidence?

Alison Saunders: The answer is it rather depends on the case, and that is not very helpful.

One of the things we have said we will look at is trying to get to victimless prosecutions because a lot of people will not want to come and give evidence. There is also an issue the Committee may want to consider around anonymity for the victims. If we take a rape case or a sexual offences case, victims have anonymity. In this particular case, we would have to put a victim onto the witness stand and it is a public trial and their names would be out in relation to the fact they had been subject to FGM. That may be something that means victims are not coming forward.

We would try our very best to do a victimless prosecution but in a lot of cases we would have to have the victim who was prepared to come to court and give evidence. We can offer them support and we can do things like have a pre-trial visit to the courtroom. We can look at screens, TV links and other issues that will help to protect the victim, but in many cases it may be necessary for the victim to come to court.

Q107 Dr Huppert: Related to this, some of the victims or survivors may not be that interested in prosecution going ahead because it affects family members or other people close to them. If you had a case where there was clear evidence it had happened but the victim did not want the prosecution to go ahead how would you deal with that?

Alison Saunders: We would ask the police, and part of the protocol makes it clear the police would be asked to go and find out exactly why the victim did not want to go ahead because some of it may be fear. Some of it may be they do not want to see their family in a criminal trial and at risk of imprisonment, and we would weigh up exactly what the public interest was in pursuing it.

We could ask to use the victim's evidence as hearsay but as they are the main victim that is unlikely. We would consider whether to have a witness summons to force the witness to come to court because sometimes, again, we do this in domestic violence cases where sometimes it takes a decision out of the victim's hands, and that can help. Certainly in one case where we decided not to proceed, the victim was very clear about the fact she did not want to come and give evidence and also there were some real concerns about her own mental health had we pursued the case. It is a very fine and difficult balance.

Q108 Dr Huppert: In principle you might be prepared to do it even though the victim did not want it?

Alison Saunders: In principle we might.

Q109 Dr Huppert: You talked about anonymity. As I understand it, in rape cases where anonymity is given, the media are aware of the identity of the person involved and I have been made aware of cases where people have been contacted by the press after a case where they thought they were anonymous. Would you be offering the same sort of anonymity that is not anonymous if the media know who you are, or a stronger form of anonymity that would protect people?

Alison Saunders: It would be the same form of anonymity, so it means your name is not publicly put out there in the media. I can imagine it would be extremely embarrassing if you were brave enough to come forward and give evidence, and you might not want everybody in your neighbourhood or anywhere else you go to know that you had been subject to FGM. I think that is something we should be considering.

Q110 Mr Winnick: This issue has come very much to the fore in the last year or so. It was not unknown before but it has become very much a topical issue, if only because of the campaigning of one or two people who have done tremendous work that we have the highest respect for, as I am sure you do.

Alison Saunders: Yes, I do.

Q111 Mr Winnick: What more could be done? This may be slightly outside your remit but nevertheless do you feel that schools, primary, secondary schools, mosques, other religious organisations and groups could do more to highlight and warn of the consequences if this degrading and inhuman operation takes place?

Alison Saunders: I absolutely do. There are a number of campaigners who have come forward and been very brave and spoken about their own experiences and that is highly impactful, but I think there is more that we could do. I visited a project called Integrate in Bristol where they had a lesson that could be dealt with, and we looked at the lesson and worked our way through it, that could go out to schools and highlight the issues there. You

want to get in to people who are going to know about it who can warn, because, if we do prosecutions, at the end of the day we have failed because someone has been subject to FGM. It is far better to prevent and make sure people are protected right at the very beginning, so if we can get into schools and get that lesson across, that would help. Anything we can do around awareness-raising would be good.

Q112 Mr Winnick: The media could also play a positive role?

Alison Saunders: I think so. The *Evening Standard* has run a huge campaign and *The Guardian* around FGM that I think has really helped, but again it could be wider.

Q113 Mr Winnick: We asked one of the witnesses at our previous session, “Is there a feeling among some that this is racist and to spotlight this is a racist matter?” She responded, “What would be racist is to ignore the evil that is being inflicted on innocent women”. Presumably you 100% agree with that?

Alison Saunders: Absolutely. I do not see there is anything racist in highlighting this or dealing and attempting to deal with it. It is abuse that should not happen.

Q114 Chair: Nimco Ali, one of the campaigners on FGM, suggested in evidence to this Committee that we scrap the current law and look at legislation in Australia that she and others believe is a better way to protect girls and young women. Have you looked at that legislation to consider whether in fact we have it wrong here and what we should be doing is treating this in a completely different way?

Alison Saunders: I am not familiar with the Australian legislation, sorry, but I do think that our legislation, if we amended it slightly, would be sufficient. It is not the legislation that is stopping us bringing prosecutions. It is the fact that we do not have the evidence and we have not had the cases referred through.

Q115 Chair: Director, is it just about amending the law slightly? Is it not much more fundamental than that? The Committee is very puzzled, and so is the public, that, with all these thousands and thousands of women who have been cut in this way and mutilated, only 11 cases have been referred. It seems that only in the last few weeks and months has there been an effort to try to get things moving. Is it just a slight amendment of the law or is it much, much more fundamental than that? Have we as parliamentarians failed these young girls? Clearly the law has failed them because it has not been fit for purpose in the way you describe. But 29 years after it has been made a criminal offence the first prosecution ever: it is bad, is it not?

Alison Saunders: I agree, it is and we should have been using this more beforehand. I think it is not just the legislation because, as I say, the legislation is not necessarily the issue. It is about awareness-raising, making sure we are investigating this in the right way. I think there have been great strides over the last couple of years, it is not just the last few months, around making sure that prosecutors are aware and police officers are aware, making sure we can think about how we are going to investigate these—that has to be more proactive than just sitting back and waiting for someone to come in and complain. Investigations around are there cutters in this country and where are they? If we can

prosecute a cutter that would be far more impactful than prosecuting parents who have subjected their children to FGM.

Q116 Chair: Of course. I was with the Public Health Minister in her constituency in Battersea on Friday when you made your announcement. She was very excited about it because Jane Ellison has been at the forefront of these issues.

Alison Saunders: She has been a loud campaigner, yes.

Q117 Chair: It is about sending a message. How do you get a message? It is not your job, is it, to get a message to parents? Whose job is it to get out into the community and make sure that message gets across? You can only deal with what has happened afterwards. You cannot prevent it, can you?

Alison Saunders: No, we cannot. There is a whole raft of people who are responsible. Education can do more. Parliamentarians possibly can do more in their constituencies. Leaders in communities as well will have a large impact. There is a whole raft of people who should be doing more to raise awareness and make sure it is clear that this is illegal and is not to be condoned.

Q118 Nicola Blackwood: I have to say this feels quite similar to some of the discussions we had over child sexual exploitation when it seemed like the response you get from police and CPS was, “You cannot expect the victims to just walk in the door and if nobody will give evidence then there is very little that we can do to prosecute”. A huge amount of work has gone on and obviously the CPS deserves credit for some of the work they have done and so do many of the police forces. But it has not just been about getting the legislation right. It has also been about making sure it is implemented right by putting in the right structures as close to the ground as possible. That has been about making sure that all the different services and agencies are working well together and sharing information properly so that, for example, local NHS services are confident in sharing information with the police and with social services so they know it is not going to lead to untoward outcomes for the individual they are sharing the information about. I just wonder if, with FGM, the same kind of work is ongoing, because it feels slightly like maybe all the work is going on at too high a level and it is not going on right at the point where people need the help and intervention.

Alison Saunders: Your point is well made and we have taken that on board. We have guidance for prosecutors, we have had our first joint training between police and prosecutors last month and that is going to happen again. We have 13 prosecutors who we have a monthly phone call with to find out what they are doing, how they are working with their local police forces, what awareness-raising they are doing or what work they are doing around investigations and early investigative advice. We are pushing this at all levels throughout the CPS so it is not a case of the written guidance. It is not a case of we do not have prosecutors doing what they should be doing and being held accountable for it. We are trying our very best to do this.

Q119 Nicola Blackwood: It was less of a criticism and more a question about how we are going to make sure that it is not just a set of guidance and 13 prosecutors doing their best to link in with the police. How are you going to make sure we have in each area that has high

prevalence a team working there with NHS, schools, police, CPS and so on properly linked in and engaged together and being proactive about seeking out those who are affected? That is what was necessary to start changing the tide on CSE and I rather suspect that will be what is necessary in changing the tide on FGM as well.

Alison Saunders: A lot of the work we have done on child sexual abuse works across because we have made those links so we can exploit those links to use them with FGM as well. Prosecutors have been going to lots of sessions with police colleagues, health colleagues and communities to talk about the issue and raise awareness, and to try to work through in raising confidence so that people will come forward. It does not have to be people who have been subject to FGM. It could be people who are in schools who think about this girl who is going out for a length of time during term time, going back to certain countries, and that might raise awareness and they might report it and we have had cases where that has happened. I think there is a lot we can do and are doing around exactly your point.

Q120 Chair: Thank you. Finally, I think it would be helpful if this Committee had a note from you on the look at other jurisdictions, one of the four points made by Nicola Blackwood. That would be very helpful.

Alison Saunders: I am certainly happy to do that.

Q121 Chair: Thank you. Later, we are going to take evidence from Bernard Hogan-Howe on a number of issues including police corruption and undercover agents. In all the years you were the Chief Crown Prosecutor for London did you have to consider any cases in respect of any of these matters, either the Lawrence case—I am not talking about the murder of Stephen Lawrence—but specifically about police corruption?

Alison Saunders: I did not. Police corruption would not have been dealt with at that stage by CPS London. In any event it would have gone to our headquarters department. I dealt with some early issues around undercover officers that have been raised as part of the Ellison report while I was in London and obviously we are dealing with it now. We are setting up a team within the CPS, a separate team to deal with both issues in relation to undercover officers and any police corruption. We are working very closely with the Attorney-General's office and Mark Ellison to take that work forward following his report.

Chair: That is very helpful. Mr Ellis has a supplementary question.

Q122 Michael Ellis: I have two very quick points. Following on from the Chairman, how is it that the press hear about high profile prosecutions, as they sometimes do? As the Chairman said, we are having an inquiry looking into police corruption and it is often said there are leaks to the press from the police about these matters. Do you think the Crown Prosecution Service could be the source of any leak of information about high profile prosecutions?

Alison Saunders: No.

Q123 Michael Ellis: You have no reason to believe it. Do you think it happens at all?

Alison Saunders: No, not as far as I am aware.

Q124 Michael Ellis: My final point is this. It is said that one in 10 magistrates court cases involves prosecution for television licence fee evasion. Do you want to see fewer prosecutions for TV licence evasion?

Alison Saunders: I think we need to look at what should be in our courts and I think TV licences are possibly a category of cases that would suit a regulatory regime far more than a criminal regime.

Chair: We have all paid our licence fees, as far as we are aware.

Alison Saunders: Good. I am glad to hear it. So have I.

Mr Winnick: Where is the evidence?

Chair: We may well write to you again about this. We will obviously be following the case on 15 April but we would not like this to be the end of the matter, clearly: 29 years et cetera.

Alison Saunders: It is certainly not the end of the matter.

Chair: Thank you very much for coming.