Evidence from Rt Hon Lord David Blunkett for the Justice Committee on IPP
16th November 2021

If I had my time again would I have introduced indeterminate sentences in the Crime, Justice and Sentencing Act 2003?

The answer is a very nuanced “yes”. Yes, with substantial qualifications. Yes, because there was a problem already identified with prisoners who were serving incredibly long sentences without the opportunity of therapies, courses and programmes that would allow them to demonstrate changed behaviour; and “yes” because there were people who had been released following determinant sentences who were clearly (and in some cases, demonstrably), a danger to the public.

However, as I've indicated on a number of occasions and why I've spent so much time over recent years on this issue, its implementation and, to some extent, the drafting of the legislation, left a great deal to be desired.

Therefore, if I had my time again, I would have been a great deal clearer about the particular nature of the crimes committed and, therefore, the determinant sentence that would have been warranted, before an indeterminate sentence could be applied. I would, in that sense, have overridden the request of the judges that this should be left to - what was then - the Sentencing Guidelines Council, and to the discretion of judges within the Council’s guidelines.

I would also have built into the legislation that the sentence itself could not be applied until the Treasury had delivered the necessary resources required to allow the journey of the prisoner to demonstrate to the Parole Board that they were no longer a danger and could be released. I had left the Home Office by the time the particular clauses of the legislation were implemented, and I regret now that this proviso had not been clear from the beginning.

I was not responsible for the iteration of the licensing conditions, but it is absolutely clear, to me that we should have laid down, at least in guidance, that the probation service should use common sense discretion in terms of what constituted the type of breach which would warrant a return to prison on the same terms and under the jurisdiction of IPP! Resentencing might have appeared to be clumsy but having seen the operation of Community Courts in Redhook in New York, and initiated an experiment in Liverpool, I was convinced that courts could deal with matters in a sensible and sensitive way. This should have been built in as part of the formula in respect of breach of licence.

Having said all that, the fact that it is nearly 10 years since the indeterminate sentence provisions were abolished demonstrates the obvious. Namely, that many of those who have never been released are still demonstrating levels of risk which do not allow the Parole Board to confidently release them into the community.

It can be argued (and it has been in our recent debates in the House of Lords on the Police, Crime, Sentencing and Courts Bill) that the test applied is too harsh, or even should be reversed. Clearly this is hard to accept by any government, where there might be considerable precedent and, therefore, a knock-on effect elsewhere within

the criminal justice and sentencing system.

However, the decision of the government reflected in the new legislation that for certain, more dangerous criminals release should no longer be at the halfway point, followed by licence conditions, (and, therefore, the removal of licence conditions), changes the terms on which different types of prisoners are to be assessed and therefore released. This, in my view, is perverse.

Due to my overarching responsibility for initiating this sentence, I have been prepared both to listen to, and to take enormous amounts of correspondence from, IPP prisoners and their families. My heart goes out to those who have seen their loved ones incarcerated long beyond what would have been determinant sentence, with all the damage - to the individual and, it has to be said, to those who care for them - which has arisen.

The former Prisons Minister, the late, much lamented, Paul Goggins and myself, met with the then Justice Secretary, Ken Clarke, to try and help design the aftermath of the abolition of IPP in 2012. I have consequently been working with, and assisting, those campaigning and corresponding with those incarcerated.

I will continue to do so, but on a cross-party and no party basis, and I'm keen that the reflections of the genuine concern across the House of Lords should result in real and lasting change.

There is absolutely no point in speaking to, or moving, amendments only to see that political fear of media reaction overrides intelligent thinking and, therefore, common sense approaches to resolving a long-standing, abstract and outstanding problem.

My own failure and - it must be said – that of parliament, in getting the exact nature of the original sentence wrong, should be a clear lesson to legislators and the judiciary. The challenge, now, is to find an immediate solution which will both assist in reducing the prison population and avoid the revolving door for those who find themselves returned to incarceration under the original sentence (not, for the misdemeanour for which they have been recalled). We must provide the Parole Board with the resources and direction which will offer hope to those who, at this present time can see no way out of imprisonment which at some point in the future must end - regrettably at a point where great damage has been done to successful rehabilitation, to their future and the well-being of their loved ones.