

Written evidence from The Institute of Now

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A systemic analysis of the IPP justice error shows two vectors to the problem which when combined produce very troubling outcomes. For prisoners who committed less serious offences this conceivably includes inhuman treatment especially when iatrogenic mental illness becomes the cause of a vicious circle in relation to rejection of parole.

Paradigm problem

To have a chance of success an indeterminate sentence regime would require a justice system to closely follow a restorative and rehabilitative paradigm. The English and Welsh prison system in the majority operates the opposite paradigm which is a highly punitive and coercive regime. An indicator of this problem is that out of 117 prisons in England and Wales only 2 have significant “therapeutic community” aspects, HMP Grendon and HMP Send.

The consequences of this mistake on its own are plentiful however when combined with a second actuarial and category issue it might make the failure of the IPP project a systemic miscarriage of justice.

Predetermination and Assessment of Dangerousness

The labelling of IPP prisoners as dangerous was ubiquitous and is taken as a certainty at parole board hearings. The catastrophic flaw within IPP legislation was the ill-advised logic contained in the assessment of dangerousness clause of the original CJA 2003. This diverted many people onto the sentence who should not have been. The judiciary perennially attempted to address the problem by recommending and enforcing restrictions on the use of the sentence, but subsequently the parole board has not been permitted to identify predetermined assessments which were inappropriate. The release criteria are dictated to the parole board by the Ministry of Justice and after an IPP inmate's tariff expires it is the measure of risk of re-offending solely which guides the decision concerning release, recall and end of licence decisions leaving the miscategorisation problem unaccounted for.

The LASPO Act 2012 gives power to the Justice Secretary to address this but Ministers have consistently ignored the problem making the judgement that there is no political capital to be gained from change. This converts the cohort of miscategorised individuals into preventively detained political prisoners and their circumstances could be described as internment.

Instead of continuing destructive leadership behaviours, the Minister of Justice should allow the parole board to treat all IPP prisoners as if they had been given determinate sentences based on their offences. If there is concern about reoffending then only the laws used to detain determinately sentenced prisoners can be applied otherwise two justice systems will continue to exist.

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