

## **INNOCENCE PLYMOUTH REPORT 2013-14**

***Louise Dale***

**and**

## **INNOCENCE DEBATE REPORT**

***Louise Northcote*<sup>1</sup>**

### **INNOCENCE PLYMOUTH REPORT**

Innocence Plymouth, formally known as The Plymouth Innocence Project (PIP) was set up in the academic year 2008-09. The change of name is due to the fact that Plymouth University is no longer affiliated with the Innocence Networks UK and instead runs as a pro bono university project. This is due to recent changes within the INUK, therefore numerous universities around the country are choosing to work as university projects without the formal affiliation to INUK. However, these changes do not change or affect the work that is being carried out on current cases; our students are still working hard for our clients in an attempt to progress the current cases that are under examination. Currently the students involved in Innocence Plymouth are working on two murder cases and one rape case, each case staffed by a group of four students.

Innocence Plymouth offers a useful and positive experience to both clients and students, by providing the client the opportunity for fresh eyes to examine their case and enabling students to be actively involved in real criminal cases. Gaining practical legal experience, and both legal and non-legal transferrable skills in the current competitive employment climate enhances the students' employability whilst allowing students to gain these skills in a structured and supportive educational setting.

The students working on the current cases are chosen from a mixture of stage two and stage three students. They are required to apply formally by application and CV setting out why they are an appropriate candidate to be part of Innocence Plymouth. Some students use the experience gained for their work based learning module and others simply participate as volunteers for the invaluable experience that the work

---

<sup>1</sup> Louise is currently at Exeter undertaking an LLM in International and European Law

provides. Some students will remain members of the project for two years. This allows for consistency in the casework and provides the clients with assurance that they have a substantial period of time with the same people working on their case. Therefore these students will have a deeper understanding and knowledge of the case files and information available to them due to the sustained period of time they have dedicated to the case at hand, equally this should ensure that significant progress is made in relation to casework.

All students, both new and those returning to the project for a second year, are required to attend an induction morning before the first academic term commences. This induction provides students with an overview of criminal law and criminal litigation. It focuses on providing a context for their casework and an understanding of both the grounds for and the process of appeal, their ultimate casework goal. Casework is carried out in groups of four which provides significant advantages in terms of the soft skills that can be gained such as building self-confidence, team work and debating. Innocence Plymouth further provides opportunities for autonomous learning, for example students have to use initiative by researching different aspects of a case that may result in an appeal. An extensive amount of the detailed casework is carried out by the students themselves which requires discipline, organisation, leadership, team work and time management.

## **1 Innocence Plymouth Events**

In addition to the casework, to help raise awareness of the project, its aims and the general issues associated with miscarriages of justice, Innocence Plymouth hosts and attends a variety of events during the academic year. In 2013-14 these included a talk about how to investigate potential miscarriages of justice, the work of the probation service and a Question Time style Debate.

In the early part of the year Innocence Plymouth hosted a talk given by Helga Speck on the topic of 'False allegations of sexual abuse.' Helga works to help those who have been accused or convicted of sexual abuse crimes prove their innocence, which consequently means having to prove the accusers made false allegations. Helga's interest and the catalyst that initiated her work in this area stemmed from a friend being falsely accused and her desire to help him. She currently assists

solicitors working within the miscarriage of justice field as well as individuals, often through investigating social media tools such as Facebook and Twitter. Feedback from the students who attended Helga's talk was very positive and the interest it sparked in potential miscarriages of justice led some to apply to Innocence Plymouth. Helga also introduced the students to the compensation available for victims of sexual abuse crimes pointing out that this not only compensated victims of crime but also may encourage accusers to exaggerate or put forward false allegations. This was an eye opening experience for all and a good example to show the students how multifaceted some of these issues can be. We also hosted a talk from Michael Atkinson from the Probation Service. It was invaluable to hear from someone with considerable experience of the prison system and what it is like to visit prisons, as well as discussing the difficulties in obtaining parole for prisoners maintaining their innocence. He really brought the process alive and made it very real.

Innocence Plymouth hosted its annual Question-time style Debate in March. This debate was attended by students, and five key speakers; His Honour Judge Taylor (Chair), Jason Beal, Hannah Quirk, Nigel Lyons and David Gittins who generously gave their time to this event. The debate revolved around five main questions as explained and discussed in the accompanying report by Louise Northcote.

These events encourage students to move outside of their comfort zone and become actively involved in discussions with various legal and non-legal professionals. The general feedback received from students is exceptionally positive with comment on how useful the debates are to their learning and understanding of the criminal justice system. The debate is currently run as a panel debate. We are considering changing this to a more interactive debate between students and speakers. This will consequently develop students' public speaking abilities, the ability to think on their feet and provide them with the opportunity to show the knowledge and understanding they have gained from being part of Innocence Plymouth.

## **2 Reports from the Cases:**

Innocence Plymouth is currently acting on behalf of three clients, all of whom have been convicted of serious crimes and are currently serving lengthy prison sentences.

All have maintained their innocence from the outset and have already appealed to the Court of Criminal Appeal without success.

### **Case B**

This case was in its fifth year with Innocence Plymouth. It is a murder case that involves a shooting over drug money and has extensive documentation amounting to approximately 40 lever arch files. The first couple of years were spent predominantly on obtaining, reviewing and organising the vast amount of documentation. Once this had been assessed the case group were able to move forward with a far more detailed investigation. This year the case group has been able to create a timeline document to identify key dates, individuals and events. They have also begun the process of preparing papers with a view to instructing new experts to review expert evidence in the areas of metallurgy and DNA as well as undertaking research in both of these areas in order to understand the material. They have also researched issues around parole to assist their client's understanding of this area.

### **Case C**

This case is in its second year and is also a murder case with potential links to the local drug trade. Our client was convicted under the doctrine of joint enterprise; despite allegedly being at the scene with others he was the only one who was tried and convicted by the court for the murder. In the course of the past year the case group has made notable progress. They have written to many of the parties involved in the defence of the case including the client, his family, past legal representatives and forensic archives. They also undertook research into the possibility of racial bias either by the court and/or the police during their investigation including researching racial bias in police investigations, court proceedings and miscarriages of justice more widely. Given the potential link between the murder and drugs the students also undertook research into the local drug culture in the area. Their analysis of the case facts was assisted by producing timelines and relationship webs.

### **Case D**

This case was in its second year with Innocence Plymouth. It is a rape case. Our client was convicted of specimen rape and indecent assault on a step-grandson. The case group contacted legal representatives to assist their understanding of the

nuances in the original court proceedings. They were able to clarify that the use of 'bad character' for an appeal would be a pointless exercise and therefore their time was better spent in different areas, thus this point of appeal was dropped by the case group and they moved on to other points for a potential appeal. They researched celebrity cases and whether these had any similarities with their client's case, and could be used as a form of progressing this case. The case group also explored the possibility of visiting their client and hope that this may take place in 2014-15.

## **INNOCENCE DEBATE REPORT**

### **Introduction**

Each year the Plymouth Innocence Project arranges a Question Time style debate in order to raise awareness, not only of the objectives of the project itself, but of current issues within the criminal justice system. This year's questions were perhaps deliberately loaded, designed to engage the audience, provoke thought, and yet ultimately deliver a fun evening. There was a fantastic turnout from staff, students, and professionals alike, making the Project feel well supported in its mission to raise awareness of its cause.



His Honour Judge Taylor, who is such a prominent part of the Plymouth Law School and needs no introduction, chaired this year's debate. Alongside him were panellists Jason

Beale, Head of Devon Chambers and PIPs supervising barrister, Nigel Lyons, a partner at Foot Anstey and PIPs supervising solicitor, Hannah Quirke, an academic at the University of Manchester Law School, and David Gittons, an experienced barrister who specialises in criminal law. With professionals from varying legal backgrounds the debate promised a variety of opinions from people who experience the criminal justice system first hand.

## **1 Panel Questions**

### ***Cutbacks in legal aid***

The first question presented to the panel was designed by Judge Taylor himself in order to get the audience and panel 'warmed up'. It was asked that 'given the cuts in funding of the CPS and legal aid is the panel content for a criminal trial to be prosecuted and defended by inexperienced advocates?'. In response the panel demonstrated similar views. One, in particular, was that it should be asked whether the defendant would like to be defended by inexperienced people, to which, the answer it was suggested, was no. This was further supported by the argument if any of us were before a criminal court we would want specialist representation, with Hannah Quirke further stating that 'we would expect comparably qualified medical people to have specialist skills'; therefore barristers and solicitors should be well paid. David Gittons' comments ran along similar lines, arguing that it is the minority of barristers who earn a great deal of money and once the press learns about them, it is treated as the norm. In reality, he argued, barristers have to deduct fees and costs from their earnings, meaning that their salary on paper is not, in fact, an accurate representation.

### ***Press Reporting***

The second question of the evening was the beginning of the questions set by the Project itself. It was asked, 'Should the press be allowed to report on cases whilst they are in court, does reporting throughout the case affect the outcome due to its impact on jurors, witnesses, and the legal professionals?'. The recurring theme throughout the answers to this question was that justice should be open justice, and that the current system was adequately balanced enough to deal with the press's possible influential impact on juries. David Gittons referred to the fact that there are safeguards in place which means that juries are not particularly influenced by the outside world because of adequate warnings given by the judge. People are not, however, infallible and the point was made that whilst trials must take place in a public setting, it has become increasingly difficult to police jurors who, for instance, use the internet to do research during trials. Whilst this point raised genuine concerns about the possible 'chinks in the armour' of the free press and the justice system, it was recognised that there perhaps can be practical advantages of the press publically reporting cases.

Jason Beale, in fact, referred to instances in which the publicity of a trial has led other victims to come forward as a result of what they have seen in the newspapers or on television.

### ***The Role of Juries***

The third question of the evening, asked that 'in light of the decision in the Mark Duggan case, should the jury have to justify their decision?'. This question inadvertently invited the panel to take a step back and consider the bigger picture of whether, if we didn't have juries, what would we have instead? The general opinion, it was suggested, was that people are either devoted to the idea of juries, or they believe that they are dangerous. Having said that, the consensus of the panel seemed to be that juries are fair, and whilst they have assistance by the court, they are entirely entitled to reach a decision in a completely illogical manner, if they so wished. As Hannah Quirk advocated, much to the audiences' amusement, 'jury decision making is a lot like making sausages, it's best not to know how the end result is achieved'. Therefore, if our system allowed advocates to be privy to the process of jury decision making it could lead to one major drawback. Nigel Lyons stated, that 'as lawyers we could argue for hours as to how they reached their verdict and whether it was right'. If advocates were allowed to do this, and appeals submitted on the basis the jury did not decide the verdict appropriately, it would devalue the whole foundation of the jury system itself. Juries, it was maintained, are completely entitled to make decisions which are illogical and not completely underpinned by the law. On the other side of the coin, however, in order to support the legal system it was hoped by the panel that juries could reach an objective decision based, not upon emotion or prejudice, but the facts of the case, and the law. It was submitted, that only three in ten juries could follow a straightforward direction on the law. This, it was recognised, was not surprising, although quite worrying and could raise the potential for greater miscarriages of justice.

The solution? Perhaps, as Jason Beale suggested, there should be a system of tick boxes which 'might give a greater degree of certainty, openness without going into too much detail about why they came to their conclusion'. Nevertheless this does not negate the fact that legal concepts can be difficult to understand; as one audience member, a third year LLB student, asked 'how can [juries] be expected to understand [legal concepts] in such a short amount of time when we have a struggle understanding it when we are taught it?'. In answer to this 'rattling good question' as he termed it, Judge Taylor simply stated that whilst it was his job to convey the law in a simple manner, he simply did not know how this could be done more effectively.

### ***Life sentences***

Continuing with the miscarriage of justice theme question four asked the panel that 'given the recent decisions in the European Court of Human Rights and the Court of Appeal on life sentences, should life mean life?'. Of course, in the UK, when one hears the term 'life sentence' it does not automatically raise the assumption that the defendant has been imprisoned for life. This was exactly the main problem raised by the panel, because life has never actually meant life, it was suggested that possibly we should move away from this use of phrasing in favour of 'indeterminate sentences'. This way, perhaps, we could distance ourselves from the 'life meaning life' issue in its entirety and thus focus on whether there should be a system of indeterminate sentences and if they should have a mechanism for review, and a prospect of parole. Currently, as suggested by David Gittons, there are 53 people serving whole life sentences in the UK. 'Life meaning life' is therefore not a new concept, and, in principle, it was suggested that there is probably nothing wrong with some cases resulting in the prisoner never being released. The main problem lies with the lack of mechanism for review of the sentence. Hannah Quirke argued that individuals have the capacity for change, recounting an example from California, whereby Stanley Williams, a founder of the Crips gang, was sentenced to the death penalty. Whilst in prison he had a complete change in personality, dissuading youths from gang involvement and even twice being nominated for a Nobel Peace Prize. The Governor of California, however, refused to commute his death sentence. This raises the question as to whether the UK could end up with similar problems. The general consensus of the panel was that there should definitely be some mechanism for review. Judge Taylor argued that 'where someone has changed out of all recognition, perhaps life should not mean life', and a system for review would thus facilitate such prisoners. A further flaw with the system as he interestingly remarked, was that upon consideration of parole, the Parole Board do not in fact receive the Judge's sentencing remarks. Is it therefore possible to argue that a review system would not be effective without, perhaps, a whole rethink of the system itself? At present 'life meaning life' is still an issue yet to be resolved.

[Editor's note: for further analysis on this issue see Sir Louis Blom Cooper's article on life sentences published in this issue of the Plymouth Law Review]

### ***Historic abuse cases***

The fifth and final question moved swiftly on to discuss potential miscarriages of justice in the area of sexual offences. It was put to the panel that, 'following the recent cases relating to Operation Yewtree, should defendants in sexual offences cases be given anonymity until conviction in order to protect those falsely accused?'. Operation Yewtree is the police mechanism through which historic cases of sexual abuse can be brought, some relating to



the Jimmy Savile scandal, and some relating to other offenders. To answer this question David Gittons took a step back in order to guide the audience through the history of anonymity for sexual offenders. Sexual offenders were granted anonymity under the Sexual Offences (Amendment) Act 1976 repealed in 1988. He argued that, being in the situation we are today, there are good arguments for both sides of the debate. Referring to the recent case of Bill Roache allegations of sexual offences can cause an excessive amount of stigma on people who are acquitted. Nevertheless, against anonymity, there are the arguments that hiding the name of the perpetrator can cause stress to victims, and that justice should be open justice, which could cause more victims to come forward. Although other members of the panel did not seem to sit so squarely on the fence, it was argued that people generally have an innate sense of fairness, and that the stigma is possibly not so pronounced that it causes endless problems after the trial. Reflecting on the earlier question regarding press reporting, it was suggested that because cases are generally reported in a sensible manner there should be little danger of stigma, therefore there is no need for anonymity to prevail. My Lyons agreed with this line of argument submitting that there was a problem with the lack of press reporting if the defendant is acquitted. Opposingly, it was argued that a trial should not be used as a tool for encouraging victims to come forward and that with Yewtree being historic cases, there is a likelihood of increased miscarriages of justice. Judge Taylor, in fact, had a problem with defendant's names being released before the charge stage, after that it was 'fair game'.

## **Conclusion**

At the end of the debate, there was an opportunity for people to network with the panel members, and the professionals from the audience, and refreshments were offered. It was well attended and a very successful evening for all. On behalf of the Plymouth Innocence Project, therefore, we wish to thank Judge Taylor for chairing this year's debate, along with all the panel members, who presented some interesting arguments. Additionally, the Project would like to thank all those who attended, making it such a fantastic and informative evening.