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Dear Friends and Fellow Campaigners

As you will be aware Jan Cunliffe and I gave oral evidence to the Justice Select Committee on their follow on Inquiry into Joint Enterprise in September. When JENGBA first gave evidence in 2011 some members of the JSC were quite dismissive that JE was being abused and the focus was that it was a 'law' usefully used to tackle 'gangs'.

Recently I went with a family to see their MP before we gave this round of evidence and he told me that the JSC must be very concerned with the issue to hold a second Inquiry so soon. Well I am pretty sure three years doesn't feel like that soon to you but let me assure you the mood during this Inquiry was totally different, and in fact I would go so far to say that the huge can of worms we have been trying to expose is well and truly opened. This is in part due to you Inside Campaigners. A number of you were sending messages to us about a research project being undertaken by Cambridge University Criminology Dept. into the long term effects of mandatory sentencing on young people and Joint Enterprise was being flagged up. JENGBA contacted the Professors and asked could we see their data and knew instantly it vindicated everything we have been arguing about how JE is being abused. It *does* discriminate and *it is* resulting in miscarriages of Justice. We asked them to submit to the follow up Inquiry and they kindly did – not just the research into long sentences by Ben, Susie and Serena but also Matt Dyson and Graham Virgo of Cambridge's law department. Ben and Matt were asked to give oral evidence also. Families had travelled from Liverpool, Wales, Manchester Wigan, Bradford and Kent to hear the evidence and we can't tell you how important this hearing was.

Below is extracts of the evidence the JSC now have on their website:

Written evidence from Dr. Ben Crewe, Dr Susie Hulley and Ms Serena Wright, Institute of Criminology University of Cambridge

The majority of prisoners in our survey sample are serving tariffs of between 15 and 29 years (92.7%) and over 80% received these sentences with the last ten years. We believe that these figures are likely to reflect recent changes in legislation (which have increased starting point tariffs for certain kinds of murders) and revival of the use of 'Joint Enterprise' as the basis for prosecutions in such cases. For 55.6% of survey respondents this is their first custodial sentence. This is not therefore, a highly recidivist population.

- Just over half of the survey sample (n =294) have been convicted under the doctrine of Joint Enterprise.
- Compared to the general prison population, White and Asian/Asian British prisoners are under-represented in our sample of Joint Enterprise prisoners. Black/Black British and mixed race prisoners are considerably over-represented.
- Compared to our general survey sample, higher proportions of the prisoners serving their sentence under Joint Enterprise: are serving longer tariffs; consider themselves not guilty of the offence for which they are convicted; and are currently appealing against their conviction, their sentence length or both.
- Prisoners who have been convicted under Joint Enterprise are more likely to feel that their sentence lacks legitimacy compared to those not convicted under this doctrine, complaining about a perceived absence of procedural fairness, and about both the ambiguity and the moral legitimacy of the doctrine of Joint Enterprise.

Joint Enterprise convictions and implications for penal legitimacy

- Almost three-quarters (74%) of those convicted under the doctrine of Joint Enterprise do *not* consider themselves to be guilty of the offence for which they are convicted, compared to just over 43% of respondents who are not convicted under Joint Enterprise.
- There is a great deal of evidence in the qualitative data that, for those convicted under the doctrine of Joint Enterprise, the sentence is perceived to be in some way illegitimate. This sentiment often reflects and outright claim of innocence or an acknowledgement by the offender that he is guilty of *an* offence, for example, 'perverting the course of justice' or manslaughter, but is not guilty of the crime of murder.

Some interviewees had come to recognise that they were legally guilty of murder, once they became aware of how murder was defined under the doctrine of Joint Enterprise, but could not accept that they were morally guilty of murder.

I didn't even know what Joint Enterprise was, when my QC was trying to explain it to me, Joint Enterprise, all I was saying to him [was] 'look, the pathologist said I haven't touched this guy, the friends have said I haven't touched this guy, so therefore I'm not guilty'. That's how I thought it was anyway. But I was wrong, I was wrong.

The feelings of injustice associated with Joint Enterprise were also shaped by perceptions that the process of receiving the conviction was unfair. There is a strong body of evidence showing that the process by which the courts and criminal justice representatives resolve matters have a strong bearing on people's willingness to accept outcomes. Procedural fairness has a number of components, including whether the individual feels that their side of the story is heard ('voice'), whether s/he feels that the court demonstrates bias, whether s/he feels his or her rights are being respected and whether s/he feels relevant personnel are trustworthy, honest and sincere. Some prisoners convicted under the Joint Enterprise doctrine described experiencing bias – feeling that their personal case was prejudice by the evidence presented against their co-defendants- and a cavalier attitude to their futures, as individual human beings.

I think [the jury didn't] have a clue what was going on. I think they just said 'Guilty' because that's what it sounded like with the rest of the [co-defendants].

So what do you think of the experience of being in court and going through the trial and everything.

It is not fair, put it that way.

What's not fair the conviction or the process?

The process, it is not fair at all. And even the judge said to the jury that there is no evidence against me, there is nothing that says that I was there, there is nothing that puts me there.

There's nothing that says I am even involved, it is highly likely that I wasn't even a part of it, anything to do with it. And I still get found 'Guilty'.

Based on our findings we would also ask the Committee to consider whether the current use of the doctrine of JE is in the best interests of the law, justice, and due process, particularly in relation to the experiences of young Black/Black British men, a disproportionate and growing number of who are serving sentences which a generation ago were extremely rare.

We would also ask the Committee to reflect on the implications for the prison system of the use of the Joint Enterprise doctrine, which is having a significant impact on the number of men (particularly young men) who will spend many years in prison harbouring feelings of injustice about their convictions and sentence lengths.

Graham Virgo Law Professor Cambridge University
Written submission:

Option (b) is a significant project. The law on joint enterprise liability as regards murder is not fit for purpose and is unjust, so reform is needed as matter of some urgency. It follows that option (a) should be progressed as soon as possible, with the Law Commission reviewing the law, prosecution policy and process in the particular context of joint enterprise and murder, with a view, I would hope, to make

recommendations of focused and relatively brief statutory reform.

Oral evidence given by Dr Ben Crew and Dr Matt Dyson Cambridge professors.

Q51 Andy McDonald: Thank you. You have addressed some of the other issues that I wanted to raise. Finally, I ask you both whether the use of joint enterprise results in miscarriages of justice. Is that your view?

Dr Crew: **My view is that it makes it more likely, yes.**

Q52 Andy McDonald: What is the degree of risk? Would you comment on the risk element of a miscarriage of justice occurring?

Dr Dyson: **I would not know in what unit to express the risk, but I would say that it absolutely produces miscarriages of justice, although you would have to define the term a little. It does produce problems. In particular, one of the following two things or potentially both of them are true. The defendant is convicted on the basis of evidence, which the jury take to believe, that he foresaw a risk, which is typically only the presence of a weapon. He knew that the principal had a weapon. Therefore, the jury are willing to believe or find that he foresaw the principal would use it to commit serious harm, and/or we do not know who actually did it, but we think that we can put this person in a group who are sufficiently close to it. We cannot explain to these defendants why they are being convicted, and this is where some of the submissions by Dr Crew show clearly that the defendants do not understand, when they are in prison, exactly what they have been convicted of, why they have been convicted and why it is a crime. Then they cannot engage with society's view of what the wrong is and, if appropriate, adjust their behaviour and show the remorse that leads to early release. We are just generating more and more people who do not understand why they have been convicted.**

The Justice Select Committee now KNOW how serious the problem is. It is not just coming from a determined bunch of campaigners whose loved ones are serving prison time – it has been vindicated by some of the most respected legal academics in the UK. The follow up Inquiry was concerned with whether the law discriminated and the Data from Cambridge totally proves that. The very fact that 55.6% of the people they interviewed this was their first offence in itself is outrageous.

We are now awaiting the next follow up Inquiry which we have been told will be October – we believe this will be with Chris Grayling and Alison Saunders (DPP) and we will have a large number of JENGBA campaigners there to listen to what they have to say. As Mr Lynton Christie (Inside Campaigner) says, "Gloria we are making waves! We are making waves". We certainly are, so please don't give up hope – keeping fighting – keep writing. JENGBA needs messages of what the campaign has meant to you, this will strengthen our resolve and we can show others how important this campaign for Freedom is.

As always with Love and Solidarity

Gloria Morrison

A note from a JENGBa campaigner

Hello my name is Toni Louise and I am a JENGBa campaigner sending some positive news in this newsletter. It has been a very busy past couple of months for JENGBa with the important venue being the House of Commons for the select committee inquiry. I had already made a written submission on behalf of Gerard Childs, my fiancé serving 10 years for joint enterprise murder. My contributing facts concluded that the trial evidence did not permit Gerard to be charged with murder in the first place. Given the opportunity, I travelled to London and plenty of other JENGBa members attended the enquiry in support of their loved ones. The hearing went as well as it could have with our panel Gloria Morrison and Janet Cunliffe brilliantly arguing the case for abolition. We are all very proud of them. Here are some main points:
When asked about the problem and relation between joint enterprise and 'gangs', Janet Cunliffe replied:

"We are talking about families. We have gone far beyond the deterrent to gangs. It is now ordinary people who are being affected, like a mother and a father and their son coming home from somewhere, with two brothers who were not even in that spot any more. We have stretched far beyond that, now it is affecting ordinary people who at normal times are law-abiding and are not a problem to society."

Gloria Morrison hit home with the tragic case of Derek Bentley, she added that The Government abolished the felony murder rule, but **"We have something worse."** The felony murder rule meant that you had to prove that people were part of the felony and took part all together. Joint enterprise does not need such proof.

Janet Cunliffe added: **A dangerous felony is one that you would have known with foresight. Joint enterprise can now be spur of the moment and spontaneous, and you will still be convicted of murder because you are supposed to have had some kind of foresight.**

In Gerard Childs', Jordan Cunliffe's and many more cases, no weapons were used. Mr Tufail (farther of a victim killed by two men with a gun) spoke at the enquiry and regarded those cases without weapons unjust, he said **"If someone does not have intent, and is not involved from the offset, perhaps they should not be convicted under joint enterprise."** He also told the committee:

"I do feel sorry for some of the youngsters that have gone down as a result of joint enterprise. They should perhaps be convicted under a different law and should serve some time, but, if they were not involved in the actual blow that caused the fatality, they should not be convicted of murder."

At which Mr Llwyd (committee member) sternly agreed with him.

Overall the evidence I felt went as expected, all in our favour to say the least. After all, the injustices and inequalities of joint enterprise speak volumes in tragic real life cases. Our panel simply and brilliantly proved this. Following the meeting we rushed over the road to meet with ITV news North West region who conducted an interview with Jan and Gerard's mum Mandy about the inquiry and Gerard's case. We all posed for photos sporting our JENGBa T-shirts and wristbands which aired that evening on TV. BBC and SKY News also aired interviews regarding the inquiry.

To add to this positive news **Gerard Childs was given permission to appeal against a joint enterprise murder conviction which will be heard some time in November.** The reasons were: there being no evidence of a joint enterprise and no evidence of the murderous intent. There was plenty of public interest and one magazine suggested Gerard had won the right because of the acknowledgement of the injustice Jimmy had portrayed in his film:

"Two weeks after the screening of Jimmy McGovern's harrowing TV drama Common, judges in London have granted two men serving life sentences leave to appeal against their convictions."

Speaking of which, Jimmy's film 'Common' has had 3 nominations for the **Royal Television Society Awards!** A Big Well done and Thanks to Jimmy McGovern. Another article was printed in the Liverpool Echo about both Gerard's and Jordan Cunliffe's cases. The article read **"Merseyside mums fight law which saw their sons jailed for murder"**. With the



mass amount of press coverage and the enquiry, JENGBa are really pushing forward with our goal to abolish or at least seriously reform this doctrine.

I am also confident that with the help of and campaigning with JENGBa Gerard's appeal against a joint enterprise murder conviction will be a success and will bring hope to everyone wrongfully convicted under joint enterprise.

HOPE IS WHAT KEEPS US GOING. OUR HOPE KEEPS US STRONG AND HELPS US MOTIVATE TOWARDS OUR GOALS. SO NEVER GIVE UP HOPE NO MATTER HOW HARD THINGS SEEM RIGHT NOW.

Toni Louise Murphy x

From our Inside JENGBA Campaigners

I would just like to say thank you to JENGBA for all the time and effort you're putting into this. And to every innocent man and woman wrongly convicted under the Joint Enterprise law, most things in the dark always comes to light, so it's a matter of time till we are heard.

For now, all we can do is wait and stay strong for 3 Dom 2 come 1 Day

JoJo Mafwa
HMYOI Aylesbury

One question I have is, What do you think should happen when the Judge admits that a specific role that someone played in a "Joint Enterprise attack" cannot be assigned to anyone???

I deny my presence at the scene because I was not there, I was at a BBQ but the judge and jury rejected that. If they believe I was at the scene, it is the police's job to prove what happened and what my specific role was. It is not enough to say "you were there, we don't know what you done specifically, but you are still guilty". The prosecution's burden of proof is None Existent. This is wrong.

Sean Ferdinand
HMP Swaleside

No Justice for young black men, the police don't care if you're guilty or not, you're going to jail!!!!"

Horace Campbell
HMP Whitemoor

THANKS FOR THIS!!!

Joseph Lowther
HMP & YOI Doncaster

I love you Kallum and Mark. Your dad is doing his best to became a better man and to fight injustice."

Adrian Hutchinson
HMP Gartree

All Joint Enterprise prisoners should be free or given a fair trial and the law should change the law of Joint Enterprise. It is wrong and I personally feel, I'm a Victim as well as the main Victim in my case.

Kanu Kangi
HMP Lowdham Grange

Joint Enterprise de only prise you give is to steal parents off der Kids

Joint Enterprise why you take me away from my Mother, Me not even related to De Killer

He not even my Brother

Joint Enterprise every person has their own choices in Life

Me didn't choose the killer to choose to Arm himself wid a Knife

Joint Enterprise when would your wrongness Stop You're hated by the Right

And love by De Crown Prosecution Service and De Cops

Joint Enterprise you get chase away be JENGBA because is was their Relatives and Kids you Stole

Do you Remember?

La-Marr Gordon
Broadmoor Hospital

Wigan Diggers Festival

JENGBA campaigners from all over the country attended the 4th Wigan Diggers Festival located at the historic Wiend area in the town centre. The organisers promised another free, all day, fun packed open air event to commemorate Wigan born **Gerrard Winstanley** (1609-1676) and the 17th Century "Diggers" (True Leveller) movement. Winstanley and they famously asserted: "The Earth was made a common treasury for all, irrespective of person!" and were described by Tony Benn MP as "the first true Socialists".



This year's Wigan Diggers festival was the biggest yet and was opened by John McDonnell MP and a crowd attendance of between 4 and 5 thousand people were entertained again throughout the day and evening by bands, singers, poets, political stalls, real ale and a lively march around the town centre led by a drumming band and marches with banners, placards and flags with many JENGBA campaigners leading the singing, chanting and leafleting.

JENGBA had attended last year's festival, but this year JENGBA pulled out all the stops and attended on mass with red t-shirts, balloons, banners, gazebo and petitions that had queues of people ready to sign up. During the day campaigners mingled with the crowds talking about injustice and the JENGBA campaign, which many people knew about after watching the recently broadcast BBC film Common.

Many Trade Unionists, local Councillors and Trade Union leaders attended the festival and many talked to the campaigners and offered support and solidarity to the JENGBA campaign. I can honestly say that as one of the original organisers I was extremely proud of all the JENGBA campaigners who attended and those who could not, but sent in their support.



The **JENGbA** gazebo could not be missed in the middle of the massive crowds and rest assured all the people reading this that many people are on your side and are doing everything humanly possible on your behalf.

Yours in solidarity

Tony Broxson
Wigan Diggers Festival Organiser

WHERE NOW?

We recently had a big think about where we want to take the campaign and as we believe we have managed to highlight the injustice on such a massive scale, we now have the confidence to put this forward. We wrote to Sir Alan Beith, Chair of the Justice Select Committee and this is the gist of what we said:

*“Without trying to anticipate the committee's findings or recommendations following the follow up inquiry on joint enterprise, **JENGbA** are eager to formulate some of our expectations for the future.*

We represent people without any hope of a future due to receiving hefty life sentences. If the committee comes to the conclusion that joint enterprise in its current form is unfair/unjust/not fit for purpose, we are still left with the devastation it has caused. We believe it is not inappropriate to point out, even at this stage, that if joint enterprise was to be abolished in its current form, the abolition would not have arisen if those who had been unjustly prosecuted and sentenced had not had the courage to speak out and continue to do so with all the odds stacked against them.

It is difficult to express the torment of a miscarriage of justice, let alone convince others that you are, in fact, innocent, particularly in a murder case. The public do not want to believe that our well-honed, time honoured legal system has gone unchallenged for so long but it is clear to us that this illusion of justice will become very difficult to maintain as more and more people are touched by this

legal doctrine. **JENGbA** and the people we support are of the belief that admitting there is a problem and then grasping the nettle and fully resolving the problem is the only way to move forward.

It would be easy to blame the CPS, accuse them of institutionalised racism, declare it was their wilful abuse of a legal doctrine that has put the innocent in prison, say that they have gained more power in the courtroom than our judges. Accuse them of manipulating JE so there is no balance of justice from the very onset of every case. What would be the point? Who would it help? Those we support would still languish in prison.

JENGbA is not interested in finding out where it came from or how it got to this point, I think we already have a good idea. We are about the here and now, resolving a problem that exists right this minute and progressing forward into a future that is fair and acceptable for everyone. For want of a better phrase, we are asking for a consultation into a settlement plan for all those we support.

We recognise that for any type of injustice to be accepted it needs to

be relatively blame free, so that British justice does not fall too deeply into disrepute. We are aware that resolution must also be made palatable for the public, so that those without the knowledge or understanding we all have, in particular the victims' families, do not fear any moves forward would allow murderers to walk free. This consultation could be about sitting around the table and discussing the process of how we move on, because whatever the outcome of the inquiry, **JENGbA** will still exist and we will still have to continue supporting and finding a way out for our prisoners. We believe public support will eventually demand this.

JENGbA can comfortably say that Joint enterprise does not work, in any way, shape or form, the scope is too wide. The guidance does not work, vulnerable children as young as 13 are still receiving life sentences bewildered by what they are supposed to have done. Leading academics have and continue to argue this. If it worked there would be no **JENGbA**, there would have been no need for the brief inquiry let alone a follow up inquiry. Universities up and down the country would not be providing students with information about joint enterprise, using the information brought into the public domain by **JENGbA**.

We must also ask why schools are teaching youngsters about joint enterprise, when it is not an actual law, just a legal phrase whose application can change with every given case, therefore, unteachable. It must be asked why JE is continually being described as a deterrent to gangs, knife and gun crime when it is being used against people who are not in gangs and when no weapons were used. Chris Grayling told **JENGbA** in a letter dated 23rd May 2013 that a knowing look is enough to convict someone of murder. No right minded person in the world, if asked, would ever agree to this and yet this illogical version of justice is dished out in our courtrooms unchallenged, every single day of the week.



We have stepped it up and we are asking for the injustices of the past to be put right



When **JENGbA** began campaigning various agencies raised their (so called) experienced voices saying the burden of proof needed was of a high standard, that mere presence alone was not enough to convict, that we were the friends and family members of gang members, unhappy with the long sentences our loved ones had received. We have stood strong and remained calm through all this adversity and we will continue to do so in the full knowledge that it is wrong and immoral for this to continue.



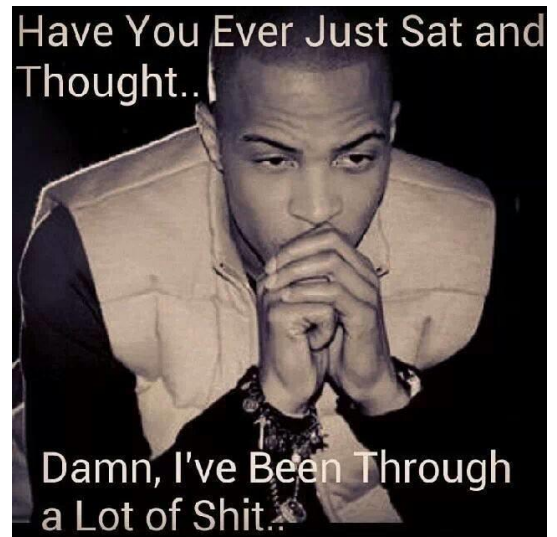
“As with the Good Friday Agreement this could become a compromise to right a very unjust wrong”



One of our goals is to see natural justice delivered to those innocent men, women and children, some serving mandatory life sentences of 35 years and more for murder, when they clearly did not commit murder. It may be bold to say this but we want all the cases we hold to be the starting point of an investigation into the low levels of evidence used to convict them. As an open and transparent campaign we have always been capable of accepting help and advice from all corners, and because of this we have attracted a vast selection of incredible people who are eager to help us achieve our goals. We feel passionately about expressing our future expectations although we do not have the answers we only have suggestions such as a consultation for a settlement plan, maybe the wrong phrase, but whatever we call it, we need something in place that sets the ball rolling for the rebuilding of so many lives. We want this to happen sooner rather than later, with those who fall into the categories of (agreed) unacceptably low level evidence to have their convictions immediately quashed/pardoned/given clemency. Expense should not matter because it pales into insignificance when compared to the rising costs of taxpayers' money being poured into the prison system to pay for places of the innocent, many of whom are children. We accepted that the committee may feel this is tall order, but we do not believe that hands are tied or that something can never be done. As with the Good Friday Agreement this could become a compromise to right a very unjust wrong.”

This further correspondence has been added to our submission to the follow up inquiry so what we want for you is now in the public domain. **JENGbA** is now not just about reforming or abolishing the law, we have stepped it up and we are asking for the injustices of the past to be put right and, because so many lives over so many years have been destroyed, we think we are asking for what is moral and right.

Jan Cunliffe on behalf of JENGbA



WRITE TO US!



Now is the time to tell us how YOU think we can help you. The Communication Workers Union (CWU) have very generously agreed to host a Think Tank for us in November to which we have invited Academics, Lawyers, movers and shakers from the campaigns and organisations who have supported us in our struggle. This is for you, our JENGbA Insiders! Please tell us how you think we can get justice for you, what questions we should be asking and what we should be doing to get you home. We are your voice and, as you know by now, we've got big mouths!!

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