

Truth, or evidence?

As a guest speaker at the *Bristol Festival Of Ideas*, Michael Naughton of Bristol Innocence Project argues legal process is no substitute for public vigilance in keeping the innocent out of gaol

The notorious cases of the Guildford Four and the Birmingham Six, innocent people wrongly convicted of IRA bombings, caused a crisis of confidence in the integrity of our pursuit of justice. In both cases it emerged that the men had been tortured into confessing to crimes that they did not and could not have committed and that successive Home Secretaries refused (for *political* reasons) to refer the cases to the appeal court. Afterwards we got a Royal Commission on Criminal Justice and from there the Criminal Cases Review Commission (CCRC) – the independent body designed to prevent such injustice. With the CCRC biting at the legs of our criminal justice system, we would no longer see television pictures of sad and angry men weeping on the steps of the court. Miscarriages of justice would be a thing of the past.

Prior to the CCRC, there was a vibrant media interest in the possibility that innocent people had been wrongly convicted and imprisoned: there were investigative television series such as ‘Trial and Error’ and the BBC’s ‘Rough Justice’ which helped to overturn scores of cases. Stories of alleged innocent victims of wrongful imprisonment made headline news, and politicians could be mobilised to pressurise the Home Secretary into re-visiting a particular case. But now that we have the CCRC, such cases are no longer newsworthy and have ceased to be a political issue. As a result, cases of alleged wrongful conviction and imprisonment are heard behind closed doors.

And yet the CCRC’s ‘teeth’ are not as sharp as the media imagine and, in fact, cannot ensure that innocent victims of wrongful conviction will have their wrongful convictions overturned. Why? According to the Criminal Appeal Act 1995, the CCRC reviews cases of alleged

or suspected miscarriage of justice only if there is ‘a real possibility’ that the case will be overturned by the appeal court.

In this way the CCRC has to second-guess the appeal court and is not concerned with the possible wrongful conviction of the innocent but, rather, with fresh evidence and possible breaches of legal procedures. In other words, it is looking for a ‘technical’ miscarriage of justice. If the process was flawed or fresh evidence suggests a conviction is ‘unsafe’, there is a good chance that the case will be referred to the appeal court. At the same time, the CCRC is often helpless to refer an innocent victim of wrongful conviction if their case does not meet the required criteria. For example, if the CCRC turns up evidence in favour of an applicant’s innocence that *was* available at the original trial, it may not even constitute grounds for referral.

Such flaws in the CCRC led directly to Innocence Network UK (INUK), launched in September 2004 at the University of Bristol to create and manage ‘innocence projects’ in UK universities.

Originated in the United States in the early 1990s, an Innocence Project is a group of (not necessarily law) students conducting pro bono investigations into the cases of prisoners maintaining innocence who have exhausted the normal appeals process and legal aid services. There are no definitive criteria for innocence projects, other than that they are concerned with allegations of factual/actual innocence and not with technical miscarriages of justice. For instance innocence projects do not consider claims that murder convictions should have been convictions for manslaughter.

Students work on real cases, giving help and perhaps most crucially hope, to alleged victims of wrongful conviction. And since those early steps in Bristol

‘Innocence Projects are reconnecting the watchful eye of the public with the workings of our courts’

there are now 30 innocence projects around the UK, with 500 students working on around 100 cases.

For each individual prisoner the practical advice and support of student investigators is often their last resort and their *only* hope. More than that, Innocence Network UK resurrects a concern with the wrongful conviction and imprisonment of the innocent.

By unearthing cases that are mired in the failings of our criminal justice system, INUK is reconnecting the watchful eye of the public with the workings of our courts. And remember, when the innocent are imprisoned the guilty are at liberty to commit further crimes.



Michael Naughton was speaking as part of the Bristol Festival of Ideas. For more debate, discussion and entertainment visit www.ideasfestival.co.uk

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