

Making sense of 'joint enterprise' for murder: legal legitimacy or instrumental acquiescence?

Susie Hulley, Ben Crewe and Serena Wright

The legal doctrine of 'joint enterprise' has been heavily criticised for lacking legitimacy, primarily linked to distributive (in)justice. This paper draws on the narratives of 'joint enterprise prisoners' serving long life sentences for murder, to address such concerns and extend the discussion to questions of 'legal legitimacy'. Prisoners who were early in their sentences explicitly rejected the legal legitimacy of joint enterprise, while those at a later stage reported 'accepting' their conviction and demonstrated 'consent' by engaging with their sentence. We argue that, rather than representing normative acceptance of the legal legitimacy of joint enterprise over time, this acceptance is a form of instrumental acquiescence associated with 'dull compulsion' (Carrabine 2004: 180), 'coping acceptance' (Schinkel 2014:72) and personal meaning making.

Key words - Joint enterprise, legitimacy, legal legitimacy, meaning making

Introduction - the legal doctrine of joint enterprise

'Joint enterprise' is a catch-all term used to describe a complex set of legal principles in English and Welsh law, which outline the circumstances in which two or more people are considered liable for a single criminal act (Crown Prosecution Service 2012).¹ While there are similar legal principles in other jurisdictions (e.g. common purpose in South Africa, felony murder in the USA and joint criminal enterprise in Australia), in England and Wales, joint enterprise has recently been subject to considerable criticism for its 'dragnet' effect and its apparent disproportionate impact on black and minority-ethnic (BAME) men (cf. Crewe, Hulley and Wright 2014; Williams and Clarke 2016; Bureau of Investigative Journalism 2014; House of Commons Justice Committee 2012, 2014). However, empirical examination of joint enterprise remains underdeveloped, with limited data on the extent of its use, its application in practice and its impact on those subjected to its principles. In this context, this paper offers an important empirical contribution to the topic.

There is much debate about what is meant by 'joint enterprise' liability in English and Welsh law, leading to confusion in both popular and legal discourse (Virgo 2014). Its precise meaning is often implied rather than explicitly stated and interpretations are inconsistent. 'Joint enterprise' is either interpreted narrowly, to describe one particular scenario, which draws on the principle of 'parasitic accessory liability' (PAL) (e.g., The Committee on the Reform of Joint Enterprise 2011), or broadly to describe three scenarios (Crown Prosecution Service 2012).² In the first, two (or more) people commit a single crime together, both taking part in the criminal act, satisfying the *actus reus* requirement and possessing the required mental element (or *mens rea*) for that offence, such as intending it to occur (Maddison et al 2016). For example, in the context of murder, this applies

¹ There are examples of cases in which twenty individuals have been charged with a single murder and multiple individuals convicted e.g., *R v Omeregie and others* [2012], *R v Wright and others* [2017] and *R v Walters and others* [2017].

² While such principles can be applied to any offence, for the purpose of this paper the focus will be on murder.

where two individuals intend to kill a person and both use knives to stab the victim, who dies. In these circumstances, both defendants are considered 'joint principals' (as in 'principal parties', or primary perpetrators) and each is charged with murder. This tends to be the least controversial form of joint enterprise. The second and third scenarios represent 'secondary liability', in which one party is considered legally responsible for the criminal act perpetrated by another. In the second scenario, an individual or individuals (known as 'secondary parties' or accessories) 'assist or encourage' the principal offender to commit a single crime (Crown Prosecution Service 2018). For example: two individuals (D1 and D2) engage in a fight with another person (the victim), and one (D1) produces a knife and stabs the victim to death with the other person's (D2) verbal encouragement. Here, D2 is liable for murder if it can be shown that s/he intended to encourage the murder. In the third scenario, which represents PAL, two individuals (D1 and D2) participate in one crime (crime A) in the course of which one of the individuals (D1) perpetrates a second crime (crime B). Here, D2 can be held liable if it is considered that s/he could have foreseen the possibility that D1 might act as s/he did. For example, D2 can be charged with murder if, during a burglary that both parties agree to participate in, D1 kills the householder and it can be proven that D2 foresaw the possibility that D1 might commit murder (that is, kill or perpetrate really serious harm).

Concerns about PAL have led to governmental and judicial review (House of Commons Justice Committee 2012, 2014), leading to its abolition by the Supreme Court in 2016. In this landmark ruling (in *R v Jogee and Ruddock [2016] UKSC 8*), the judges stated that the law had taken a 'wrong turn' thirty years previously (when PAL developed in *R v Chan Wing-Siu [1985] AC 168*) and corrected what they saw as an error in the way secondary liability had been interpreted. *Foresight*, they pronounced, was not sufficient to convict the secondary party of the principal offence. Rather, it must be proven that the secondary party *assisted or encouraged* the offence and *intended* to do so (although foresight could be used as evidence of intention).

Prior to the abolition of PAL in 2016, the Crown Prosecution Service (CPS) (2012) used 'joint enterprise' to describe *all* scenarios outlined above (following the Court of Appeal in *R v ABCD [2010] EWCA Crim 1622*). Following the Supreme Court judgement, the CPS (2018) produced new guidance, which excluded PAL and only included the principles of 'joint principals' and assist and encourage, under the rubric 'secondary liability'. For the purposes of this paper, joint enterprise is understood in its broad sense, describing all scenarios, including PAL – unless otherwise stated.³

Prevalence of convictions using the doctrine of joint enterprise

Since no official data exists, it is unclear the extent to which joint enterprise has been applied by the courts to secure convictions. In response to a request to monitor cases of joint enterprise (by the House of Commons Justice Committee in 2012), the CPS reported 260 cases of murder or manslaughter involving 893 defendants over two years (2012-2013) (on average 3.4 defendants per case) (see Crown Prosecution Service 2019a). Analysis of the data shows that the majority of cases (80%) involved defendants jointly charged with murder and, on average, 73% of all defendants were convicted of at least one offence, although the offence for which they were convicted is not detailed. This data provides a snapshot of the use of joint enterprise. Data collected over a longer

³ This is due to the fieldwork from which the data is derived, being undertaken between 2013 and 2014 – before the change in the law.

period (2005-2013), suggests that joint enterprise has been used in up to 44% of homicide prosecutions (Bureau of Investigative Journalism 2014). Both sets of figures represent cases involving two or more defendants who are presumed to be jointly charged in relation to the same victim and is therefore likely to represent cases of both 'joint principals' and secondary liability, including PAL i.e., the broadest definition. The Bureau of Investigative Journalism report offers a more conservative estimate, however, based on four or more defendants being charged with the same offence. This data suggests that 18% of homicide prosecutions during the period are likely to have relied upon the principles of *secondary* liability specifically (i.e., the second and third scenario (PAL) outlined above). However, again this data does not indicate the proportion of prosecutions that resulted in convictions for murder. In a small study of 61 CPS case files involving multiple parties charged with the same violent offence, Jacobson and colleagues (2016: 25) found that a third of cases resulted in two or more people being convicted of the principal offence. PAL, specifically, 'appeared to be a dimension' in only three cases. In the absence of official data, these sources give us some insight into the prevalence of the use of joint enterprise to charge and convict individuals, prior to the landmark ruling in *Jogee*.

Determining the impact of *Jogee* on practice is difficult due to the lack of official data. Preliminary evidence from an ongoing study suggests that it might have had a marginal effect on *new* cases, by restricting the number of young people *charged* in cases of serious group violence (see Hulley, Young and Pritchard, in progress). Meanwhile, in the two years since the *Jogee* case,⁴ appeals made by prisoners convicted using joint enterprise have rarely been granted and, where granted, few have resulted in retrial or an overturned conviction (see *R v Johnson and others* [2016] EWCA Crim 1613; *R v Grant-Murray & Anor* [2017] EWCA Crim 1228; *R v Mitchell* [2018] EWCA Crim 2687; although see *R v Crilly* [2018] EWCA Crim 168 - a successful appeal).

Legitimacy of joint enterprise

Much of the criticism directed at joint enterprise has centred on its disproportionate impact on Black and Minority Ethnic (BAME) men. In a survey of 241 men working with JENGBA (an organisation that campaigns against joint enterprise) who self-identified as current 'joint enterprise prisoners', 53% were BAME and 46% were white British (Williams and Clarke 2016). While the data cannot be considered representative of all individuals convicted under joint enterprise, the number of BAME individuals is greatly disproportionate to the number of BAME individuals in the prison population (26%) (Prison Reform Trust 2016) and in the general population of England and Wales (14%) (ONS 2012).

In the same survey, BAME 'joint enterprise prisoners' were more likely than their white counterparts to report that the process by which they had been convicted was unjust, believing that the term 'gang' had been unfairly used in their trials to draw conclusions of guilt. They reported that so-called 'gang insignia', gang related language (e.g. 'gang names') and musical outputs associated with gang activity (e.g. music videos) were introduced as evidence to convict. The racialized nature of such evidence was supported by an analysis of police data by the report's authors, which showed that

⁴ The appellant in the case in which the law was restated (Ameen Jogee) was retried, resulting in his murder conviction being overturned and his life sentence (with a mandatory minimum of 20 years) being quashed. This was replaced with a conviction for manslaughter and a 12-year determinate sentence (Jacobson 2016).

while the majority of serious youth violence was perpetrated by young white men, young BAME men made up the majority of the 'gang lists' (individuals identified by the police – and sometimes partner agencies – as gang members).⁵ The authors note the risk to legitimacy that such issues of distributive and procedural injustice pose:

the prosecution of serious violence through a 'gang' construct that appears un-evidenced has the very real consequence of undermining justice and further raising the question of procedural (un)fairness within BAME communities. (Williams and Clarke 2016: 20)

In the policing literature, the consequences of perceived procedural injustice are well established, including non-compliance, non-engagement with the police and the potential for further violence (Tyler 2006, Paternoster et al 1997, Sunshine and Tyler 2003). Such outcomes have also been identified in the prison setting, with perceptions of illegitimate treatment in prison generating non-compliance and disorder (Sparks and Bottoms 1995, Carrabine 2005).

It is not only the legitimacy of the application of joint enterprise that has been questioned, but the doctrine itself. Prior to the change in the law, the requirement for the secondary party only to 'foresee' that the crime might occur (in PAL) meant that s/he could be convicted based on a lower burden of proof than was necessary to convict the principal party, for whom the threshold was *intent* (Green and McGourlay 2015, Bennathan and Taylor 2016). This critique raises the issue of 'legal legitimacy', defined by Murphy et al (2009: 3) as the legitimacy of the rules themselves.⁶

Political scientists often take a much broader view of legitimacy than has been studied to date in the procedural justice literature. For example, a number of political theorists have defined legitimacy as the belief within members of society that there are adequate reasons to voluntarily obey the commands of authorities (Easton 1958; Gerstein 1970; Lake 2006). We suggest that one of these "adequate reasons" could in fact refer to judgments about the fairness, validity, or appropriateness of the laws or regulations that an authority is enforcing. In other words, an authority itself may be seen to have legitimate authority, but the rules and laws it tries to enforce may be seen to be illegitimate.

Issues with legal legitimacy have also been linked to outcomes such as non-compliance and non-cooperation (Murphy et al 2009, Murphy and Cherney 2012). However, to date, there has been little empirical analysis of the legal legitimacy of joint enterprise, despite it being publicly denounced as unfair and unjust (e.g. The Law Society Gazette 2014, The Guardian 2016). An indication as to the *public* view of joint enterprise is given in Mitchell and Roberts' (2010) research on public attitudes to sentences, in which 'the vast majority of [research participants] rejected a conviction for murder, even having been told that the lesser and included offence of manslaughter carries a less severe sentence.' (p.6). Prior to the current study, no research has explicitly explored the perceived legal legitimacy of joint enterprise among individuals who have been subject to its principles.

⁵ This has since been supported by an investigation into the London 'gang matrix', which found that 87% of those who appeared on the matrix were from BAME backgrounds (Amnesty International 2018).

⁶ Jackson et al (2012: 4) define legal legitimacy as 'the presence or absence of legal cynicism' or the personal belief as to whether laws are binding and one is obliged (or not) to follow them.' They distinguish between this form of legal legitimacy and the 'perceived morality of the offence'. However, this distinction works less well for the purpose of this paper, as this critique of joint enterprise focuses on perceived *fairness* of the law itself.

This paper presents data from a study of individuals convicted of murder who were subjected to very long life sentences from an early age, to support concerns about the distributive justice of joint enterprise and to evidence questions about its legal legitimacy. It presents data indicating the disproportionate impact of joint enterprise on BAME men convicted of murder when young and considers the legal legitimacy of joint enterprise according to men and women convicted as principal and secondary parties. It explains that those early in their sentences deny the legal legitimacy of joint enterprise, based on global assessments of fairness and retributive justice, and report associated feelings of anger, frustration and resentment, and some forms of non-compliant behaviour. Secondary parties further into their sentences appear to grant legal legitimacy to joint enterprise – reporting that they come to ‘accept’ their conviction over time and demonstrate ‘consent’ by engaging with their sentence. However, we argue that this should not be interpreted as a move, over time, towards normative acceptance of the doctrinal rules of joint enterprise. Rather, the apparent willingness of prisoners further into their sentences to accept their conviction and sentence can be interpreted as a form of instrumental acquiescence, associated with ‘dull compulsion’, ‘coping acceptance’ and personal meaning making (Schinkel 2014). As argued by Moore (1978, cited in Carrabine 2005: 905): ‘People are evidently inclined to grant legitimacy to anything that is or seems inevitable no matter how painful it maybe. Otherwise the pain might be intolerable.’.

The study

The study from which the sample of joint enterprise prisoners was drawn explored the experiences of men and women who were 25 years old or younger when they were sentenced to life imprisonment in England and Wales, with minimum tariffs of 15 years.⁷ In 2013, when the study began, there were 789 men and 29 women who met these criteria. In total, 309 male and 24 female prisoners across 25 prisons completed surveys and/or interviews (39% of the men and 79% of the women who matched the criteria). All participants had been convicted of murder and were serving mandatory life sentences.

For the main study, male participants were selected using purposive sampling, to allow for an exploration of the ways in which the experiences of long-term imprisonment varied according to sentence stage. Sentence stage was determined as follows: early – less than four years served; mid – the mid-point of an individual’s tariff, plus or minus two years; late – tariff end date minus two years, and beyond. Young offenders were intentionally oversampled to take account of the increase in young people entering the prison system with lengthy life sentences.⁸ In total, surveys were administered to 294 men and interviews conducted with 125 men across sixteen prisons, including high-security, Category B, Category C, Category D (‘open’) prisons and Young Offenders Institutions (see Hulley, Crewe and Wright, 2016, for more details on the research process and methods). The study did not set out to investigate joint enterprise specifically and did not do so in

⁷ A ‘tariff’ is given to all individuals who are sentenced to life imprisonment in England and Wales. It represents the minimum term of imprisonment that they are required to serve. At the end of the tariff, the individual will only be released if the Parole Board decides that it is no longer necessary to detain the individual for the purpose of protecting the public.

⁸ There has been an increase in the proportion of young people in custody for serious offences (Youth Justice Board 2018), while the average minimum tariff for murder has increased (from 12.5 years in 2003 to 21.3 years in 2016) (Prison Reform Trust 2017).

detail, yet 52% of the survey sample and 42% of the interview sample had been convicted under joint enterprise.⁹

Due to their low numbers, all 29 women who fitted the research criteria were approached to participate in the study. The women were held across nine closed prisons. During interactions in these establishments, a further two women were identified who fitted the research criteria, leading to 21 women participating in interviews and 19 completing surveys. While women were not selected by sentence stage, the time that they had served on their sentence was noted. Of the 19 women who completed a survey, nine (47%) identified that they were convicted under joint enterprise, while for the interviews this figure was 12 (57%).¹⁰

The survey mainly asked about the problems of long-term imprisonment, using an adapted version of previous research tools used by Richards (1978) and Flanagan (1980). It also collected data on tariff length: the average tariff being served by the 'joint enterprise prisoners' in the study was 21 years for the men and 18 years for the women. The interviews – of particular relevance in this paper - were in-depth and semi-structured. They were formatted in two parts: the first focused on the participant's life history prior to their current conviction and drew on narrative inquiry (e.g. Hollway & Jefferson 2000; McAdams 1988); the second explored the conviction, the sentence and the individual's life inside prison during their current sentence. The life history approach situated the individual's experiences of their conviction and sentence within their broader life narrative. It allowed the analysis to take account of the way he or she constructed their current predicament and gave meaning to it in the context of their biography (Presser and Sandberg 2015). Among other issues, survey and interview questions explored whether participants considered themselves to be guilty for the offence for which they were convicted. The interviews also explored their feelings towards their conviction and sentence, their responses to their predicament, and the extent to which these had changed over time. The qualitative data was transcribed and coded in full, and was analysed through an iterative approach.

Findings

Distributive justice: over-representation of BME prisoners

As we have reported previously (Crewe, Hulley and Wright 2014), among the sample of male prisoners convicted under joint enterprise in the study, Black/Black British and Mixed Race men were disproportionately overrepresented, while White males were disproportionately *underrepresented*. In the 'joint enterprise' sample in the current study, there were around *three times more* Black/Black British and Mixed race men and around *half as many* White men than in the general prison population (Ministry and Justice 2014). Our findings were particularly significant given the overrepresentation of Black/Black British men in the prison population, compared to the general population of England and Wales. There were over 11 times as many Black/Black British prisoners convicted under joint enterprise in our study, compared to the proportion of Black/Black British men in the community (ONS 2012). This disproportionality was not present in the female

⁹ Note: some prisoners completed both surveys and interviews and so are counted in both figures.

¹⁰ Most women completed a survey and an interview, and so are represented in both figures.

sample: seven of the nine female joint enterprise prisoners who completed a survey were White/White British.

Legal legitimacy of principal and secondary parties

Of the 149 men and nine women who identified in surveys that they were convicted under joint enterprise, 28% of the men and only one woman reported that they had been convicted as the 'principal offender' – or the one 'who carries out the substantive offence' (Crown Prosecution Service 2018), while 39% of the men and four of the women identified that they were convicted as a 'secondary offender'.¹¹

In the survey, 43% of the men convicted as principal parties considered themselves to be guilty of the offence for which they were convicted. In interviews, such participants – like those who had been convicted of murder individually (i.e. not under joint enterprise) – generally acknowledged their culpability in straightforward ways:

Basically, [...] I know what I've done is wrong and I've just got to accept the fact that I'm doing the time for what I've done. (Ricky, White European, served 7 years)

Of the 57% of men convicted as principal parties who considered themselves not guilty, a small number claimed that their case was one of mistaken identity. Most, however, expressed a lack of understanding about the offence of murder – specifically, the fact that 'intention to cause really serious harm' was part of its definition – believing that, as they had not intended to kill, they should have been convicted of manslaughter. In this sense, questions of legal legitimacy among principal parties tended to focus on the law and definition of murder, rather than joint enterprise, as such.

Significantly, 82% of men and 75% of women who were convicted as *secondary parties* did not consider themselves to be guilty of murder. In interviews, most accepted responsibility for some legal wrongdoing but did not accept that they were legally guilty of *murder*. A small number felt some degree of *moral guilt* for the death of the victim, because it had resulted from harm that they had inflicted with others, but felt *legally guilty* of manslaughter rather than murder because they had not 'intended' to kill *or* cause grievous bodily harm. Stephen, for example, described being called upon to fight by a friend who, during the fight, produced a knife and killed the victim:

I don't regard myself as a murderer, I will never accept that I am a murderer, because I ain't a murderer. I didn't kill nobody. I didn't have no intent to kill anybody. But as a result of my actions, somebody...in the 'enterprise', somebody did end up dying, and I accept that. I accept my responsibility in that regard, but I didn't intend to do any *serious* harm to the individual. (Stephen, White Irish, served 9 years)

¹¹ It is noteworthy that a third of men and 44% of women did not know whether they had been convicted as the principal or secondary offender. In interviews, confusion was primarily rooted in the lack of clarity during the prosecution process and the complexity of the 'joint enterprise' doctrine. However, it is also significant that the law does not require the prosecution to identify the parties in this way. Rather, the prosecution must only prove that the offence was committed by *one* of the defendants (if they cannot prove that at least one of the defendants was responsible for the substantive offence, all defendants must be acquitted).

Like Stephen, most secondary parties accepted that their actions rendered them culpable of some kind of legal offence but denied being legally *and* morally responsible for killing someone. Many admitted that they were present at the scene or acknowledged that they had lied to the police. In legal terms, then, they felt that they were guilty of an offence such as perverting the course of justice, and reported that being convicted for a lesser offence would have felt legitimate:

I was speaking to somebody about this [...] and she said, 'What you need to remember, Bethany, is everybody deserves an amount of time for something, whether it was the whole thing, or whether it was nothing. They need an amount of time in jail for the part that they did'. And I was like, 'Yeah, but I did my time [...] I did seven months on remand [...] I did my time then, because I lied'. (Bethany, served 4 years)¹²

In this context, the 'murder' conviction and subsequent mandatory life sentence was experienced as deeply illegitimate because the meaning and label of being 'a murderer' felt far removed from the actions for which the individual felt culpable, such as lying (about being present at the scene for example), not calling the police, or not intervening during a violent altercation. For such prisoners, then, the consequences of a murder conviction felt highly disproportionate and joint enterprise lacked legal legitimacy because it allowed them to be held liable for *murder* (as a secondary party), (Murphy et al 2009):

I still think it should have a different title or a different label to somebody who's actually taken somebody's life [...] By calling me a murderer, you're saying I killed someone, and I haven't actually physically killed someone. If you want to convict me of being there, of contributing to murder or whatever else, whatever other wording that describes the role that you play, instead of labelling [me as a murderer]. Because, to me, murderer means you've killed somebody [...] you've taken somebody's life and when you haven't, but you're still under that umbrella because of this joint enterprise, well, it should be pulled apart a little bit. (Gail, served over 15 years)

As is clear here, Gail did not feel morally responsible for killing the victim and resented both the material consequences of a murder conviction and the moral implications of the label that resulted (cf. May 2000). The law did not represent Gail's moral values or shared beliefs about what constituted the offence of murder, nor did the label and its connotations reflect the actions for which she felt responsible. Prisoners associated the term 'murderer' with being – and being considered - 'evil', 'horrible', a 'monster' – with being an entirely 'tainted person' (Goffman 1963: 12). Arkaan, who had not been convicted under joint enterprise, described this feeling, and the way that his identity was subsumed by a particular legal and moral label, as follows:

I feel like a killer and I feel like I'm one of those people that you see on TV - deranged! [...] If someone new comes on the [prison] wing we have to introduce ourselves, so I say: 'Hi, I'm Aarkan and I'm serving life for murder'. And you say that over and over again, and it's

¹² Limited details about the female participants are reported due to their small numbers and the risk of identification. The length of sentence is included given its relevance to the paper. The sentence lengths of women who have served many years (of whom there are very few) have been collapsed to 'over 15 years'.

almost as if you're reinforcing that act and that act reinforces and defines the person.
(Aarkan, Asian/Asian British, served 8 years)

The requirement to self-identify as a murderer was as relevant to secondary parties as it was to principal parties and those convicted for murder individually.

For many secondary parties, a murder conviction simply 'didn't make sense'. Individuals questioned how their conviction could be considered morally right (Sparks and Bottoms 1995), illustrating a 'legitimacy deficit' (Beetham 1991:20) relating to the law itself:

To be honest, joint enterprise doesn't make sense. If you didn't actually [commit the murder] and you know you didn't actually do it, how can they give you so long just for not speaking? (Andre, Black/Black British, served 3 years)

I don't get it [...] I just think it's fucked. Like if someone was there, yeah, and they done it then yeah, [...] you can go and prove it because you were there. But if you wasn't there and you didn't do nothing, you're thinking 'Fuck it, what's happening? [...] I've got a long period of my life that I'm going to be in jail for something I didn't do and I wasn't there', so it just feels fucked [...] I just think it's crazy. (Toby, Black/Black British, served 2 years)

Feelings of moral indignation were particularly strong when the actions that were perceived to mitigate legal guilt, such as calling the police or intervening at the scene, felt impossible due to power dynamics between the perpetrators. This was particularly the case for many female participants, drawing attention to the potentially gendered experience of joint enterprise.¹³ Many of the women reported being present during violence perpetrated by men who had physically and/or sexually abused them (typically as their partner or ex-partner), and whom they therefore feared:

I felt like so intimidated, because I was scared of one of [the individual's involved in the murder], because he threatened me in the past.

What had he threatened to do to you?

He was going to kill me. (Eloise, served 4 years)

In other instances, women described feeling unable to challenge the violence being carried out by male co-defendants due to the violence they had suffered at the hands of other men in their lives (including fathers and partners):

There's that whole fear when you've been in that background of violence, and you've always felt [...] like you daren't really get up and have a voice [to make the violence stop]. (Gail, served over 15 years)

Both male and female interviewees reported feeling intense fear of the principal offenders in their case or acute and paralysing shock as events unfolded. This raises questions regarding the legal legitimacy of the notion of 'withdrawal' in the context of joint enterprise – the actions required to stop an individual being considered liable as a secondary party (Crown Prosecution Service 2018):

¹³ We know very little about the gendered aspect of joint enterprise as women have not featured in the research conducted in this area.

I was convicted because I didn't stop [the murder] from happening, and I didn't think of ringing the police. So I think that's a bit daft how they can give someone a large sentence for witnessing a murder and not reporting it. I didn't know the person that got killed, so [...] I don't see why I should have risked my life [...] to stop it happening, I could have got stabbed and I've already been stabbed, I don't want to get stabbed again, do you know what I mean? (Harris, White British, served 3 years)

Harris' experience demonstrates the moral dilemma faced by many young people involved in group violence and their fears, in such circumstances, of becoming victims of violence themselves.

The extraordinarily long prison terms that most participants had received meant that *sentences* – as well as convictions – often felt illegitimate. Twenty years' imprisonment, for example, for failure to act or for being at the scene felt grossly unfair and 'life trashing' (Simon 2001). Participants were particularly aggrieved when they were given a tariff length that was the same as, or very similar to, the principal party – the person who had indisputably killed the victim:

I should have got sentenced but I don't feel I should have got murder because I did not kill the victim. I was there, [but] I did not kill the victim [...]

But you didn't feel that the sentence was fair?

No, because how can I get the same as an individual that's done it? And I even run off, so that should show to you that I don't want no participation in whatever's going on [...]

So did your co-d[efendant] get exactly the same sentence?

Yeah. (Cary, White 'other', served 4 years)

Do you still feel angry about the sentence?

Yes. [...] I got six years above the minimum term, which [for a young person] is 12 [years], so I was thinking 'first of all, you've convicted me of murder, and a murder they know I didn't do. And then on top of it I get the same sentence as the [...] people that [...] actually stabbed him. [...] How is that fair?'. (Jeremiah, Black/Black British, served 3 years)

Here, the scope of legal legitimacy is extended to the perceived unfairness of the legal rules as they apply to the sentencing of secondary parties. Parity in sentences between the principal party and the secondary party felt grossly unfair based on normative notions of proportionality and retributive justice. While the sentence for secondary parties was, in theory, proportionate to the offence that they were convicted of, it felt disproportionate to the *actions* for which they felt culpable. As a result, many individuals concluded that their convictions were the result of vengeful retribution or a focus on police 'clean up rates' (since joint enterprise ensured that convictions could be sought where the culprit was unknown or impossible to prove):

I just felt like they just wanted to get everyone into prison. It's like 'it didn't matter which one did it as long as they all go to prison [...] We'll just get them all together'. (Jackie, served over 15 years)

I reckon to be honest with you, that's just the easiest way... they see it as just 'We don't know who actually done it; just send them all away'. (Andre, Black/Black British, served 3 years)

The perceived lack of legal legitimacy among individuals convicted using the principles of joint enterprise had particular implications for those at the early stages of their life sentence. Such implications, we argue, then had a direct impact on the psychological labour that secondary parties to murder engaged in as their sentence progressed, in order to 'make sense' of their conviction and the length of time they were required to spend in prison.

Implications of a lack of legal legitimacy

For many participants in the early stage of their life sentence, a perceived lack of legal legitimacy led to strong feelings of anger and resentment:

The main reason for my anger was because I feel that I don't deserve this. I deserved some form of punishment, yes, but I don't deserve this. Too much punishment for a life I did not take. (Cary, White 'other', served 4 years)

Because even until now I still do think 'Why am I here, why am I convicted of this crime?' [...] I'll never accept it. I'm *never* going to accept it. (Jeremiah, Black/Black British, served 3 years)

Occasionally, such feelings spilled out in forms of resistance or violence towards court or prison staff:

When I first heard the verdict [...] my mind was just all over the place and I was fighting with the [court] officers, I swore at the judge, I was shouting at the jury [...] I thought 'Well that's [my life] basically over!' [...] I was very angry. [...] I even spat at the [prison] guards when I got back [...] I was just pissed. I was very pissed off, man. (Jeremiah, Black/Black British, served 3 years)

[When] the trial started, I started getting adjudicated, disobeying orders and just silly little things, and then going on basic and just silly things. And then fights, assaulting an officer, yeah, just up and down like that. (Deena, served 9 years)

Anger and frustration were common among the broader study sample during the early stage of their sentence (that is, not only prisoners convicted under joint enterprise), due to the shame of being involved in a murder, the enormity of receiving a murder conviction and the overwhelming nature of time they faced in prison (see Crewe, Hulley and Wright 2016; Wright, Crewe and Hulley 2017). However, the primary driver for acts of aggression among those convicted under joint enterprise was feeling that their conviction was *illegitimate*:

Do you still feel angry for example?

Of course I feel angry because I am here for something that I have never done. [...] I don't deserve to be here [...]

Does it affect how you behave in prison, how you feel about your sentence?

Yeah it does because a lot of these officers here know that if you get on the wrong side of me, I will assault you because...I have told all of them that I am here for something that I never done. (Martin, Mixed – White and Black African, served 2 years)

For some, causing 'havoc' provided justification for their imprisonment. Each act of violence could equate to a period of their custody that would feel 'rightful':

I've thought about [the sentence] before and that's when I just come up and do something mad. [...]

Why does thinking about your sentence make you want to do something mad?

Cos I feel like I might as well do something to be in jail. [...] cos I'm saying to myself 'I'm in jail for something I haven't done, so I might as well [...], then I'm in jail for a reason'.

[...] So it's, sort of, to do with feeling it's unfair, what you're in for?

Yeah. In my mind it doesn't make sense. But when I'm in block [segregation] [for hitting someone] ... if I was out [in the community] when I done that, I'd have got a year so, like, this year is for what I done to him. (Andre, Black/Black British, served 3 years)

Behaviour of this kind was consistent with responses to illegitimacy reported in the wider literature (Tyler 2006, Murphy et al 2009). However, such non-compliance was reported relatively infrequently, with the anger associated with a joint enterprise conviction rarely translating into hostility towards prison staff or active resistance towards the prison regime. There were indications that this may have been because non-compliance was mediated by perceived procedural justice (cf. Murphy et al 2009): certainly, most participants said that they felt treated fairly by prison staff, and often specified that they differentiated between prison officers and the broader criminal justice system which they held responsible for their convictions. As Liebling et al (2014) suggest, however, the effects of such anger may be subtle and displaced, contributing to a broader form of 'political charge', which can generate dangerous faith identities.

For others, particularly the women, strong feelings of anger were often 'directed inward', leading to 'cognitive outcomes (such as depression) or behavioural outcomes (such as self-harm)' (Suter et al 2002: 1096):

I'm not sitting in here doing this [conviction for joint enterprise] when I haven't done anything.

How does that then make you feel about the sentence [...]?

It makes me feel angry. I'm quite an angry person, but that's why I take it out on myself, because I don't know how far I would go if it was someone else. So that's why I sit here and I end up hurting myself. (Tamara, served 3 years).

For those six months when you... when [the sentence] wasn't really sinking in [at the beginning], I mean, what's life like then?

Just getting on day-to-day stuff pretending that nothing's happened. [...] I just got on with things and, you know, back to work straight away, everything.

And ... you said then you...

I just broke down emotionally. [...] I locked myself away from people. I didn't want to go to work, and then I ended up cutting up. (Paul, White, served 3 years)

Not only do such experiences have implications for the individual in terms of their long term wellbeing (including heightened risk of suicide - Liebling et al 2005); non-compliance also has the potential to jeopardise progression and release, due to the need for indeterminate prisoners to actively demonstrate engagement with their sentence (Crewe 2011). We argue here that prisoners understood these implications and, therefore, made sense of their predicament in order to cope.

'Making sense of joint enterprise'

Prisoners who had been convicted under joint enterprise, and who had served several years of their sentence, spoke about their experience in a qualitatively different way to those in the early stage, not least in the sense that they were more measured and less explicitly angry. A small number described suppressing their perceptions of illegitimacy as time went on and bowing to perceived pressure to admit guilt in order to 'get out':

Although they don't say it on paper, [...] if you're not admitting you're not really going to progress. If you admit your guilt, then you're likely to progress quicker.[...] If the [Criminal Cases Review Commission] refuse [my appeal], then I'm going to have to just say that I'm guilty [...] I'm not going to be here saying, 'Oh, I'm not guilty, not guilty' and then 18 years come and I'm still Cat A [...] it's pointless. (Sim, Black/Black British, served 11 years)

Here, Sim's hypothetical decision to declare his guilt in the future was motivated by the instrumental need to be released from prison. This is an example of the potential development of an 'audit self' – a self-narrative 'produced through organizational encounters' (Fleetwood, 2015: 53) – whereby 'admitting guilt' was recognised as producing positive material consequences. However, many more 'joint enterprise prisoners' who were in the latter stage of their sentence used a language of genuine or normative 'acceptance': both the conviction and sentence length were described ostensibly as the morally correct state response to a person being killed:

You talked about how long it took you to come to terms with your part in the offence [...] how long was that in years?

So that's about seven years.

And what about the sentence that you got? How long do you think to come to terms with, you know, the fact that you saw it as quite unfair?

I think roughly near round about the same time. Cause me, sort of, understanding and accepting that I got this because people died, it's not that much of a stretch to understand that I'm doing a life sentence for that, so it was, yeah, it was roughly around about the same time. (Shane, Black/Black British, served 24 years)

[T]hen [I had to] accept what I'd done and my part in it, which was really hard.

When do you think that happened?

A few years into it. (Jill, served over 15 years)

Significantly, however, these narratives were not embedded in a discourse of fairness. Instead prisoners had found ways to persuade themselves that they were more culpable of murder than they had previously. While this could be interpreted as a further example of an audit narrative (Fleetwood 2015), i.e. an institutionally induced version of selfhood, embedded after years of institutional coaching, their accounts are better understood as relating to an internal need to cope. Prisoners explained that the anger they had felt previously was both unsustainable and psychologically damaging:

I was aware enough to realise that if I started down that angry route, it was a black hole, it was a vortex I was going to get sucked into. It was a deadly road, basically. Because I would have got lost in the system. [...] You've got two choices when you're faced with a sentence like this: sink or you swim, really, and there's a multitude of ways to sink and only one way to swim. (Neil, White British, served 10 years)

Over time, then, secondary parties declared guilt, or at least a form of guilt, *in order to cope*. Schinkel (2014: 72) calls this 'coping acceptance': '... acceptance induced by the need to cope [...] rather than acceptance because the sentence was normatively just.' This type of acceptance took three forms, as prisoners directed themselves down a number of cognitive paths in an attempt to close the gap between their legal status and their perception of moral guilt: reflecting on accumulated guilt; amplifying the contribution to the murder; or highlighting a failure to act.

First, then, a number of secondary parties to murder used past crimes to justify their current imprisonment, reflecting on their *accumulated guilt*:

I accepted [the sentence] in the sense of I thought to myself [...] 'you're just getting punished all at once, for every little thing that you might have done that was not only stupid little things like driving without a licence [or] whatever'. (Julius, Black/Black British, served 8 years)

I've broken lots of laws and done lots of bad things in my life, so I have this thing where I look at it and say, 'do you know what? Maybe it's just karma, for all the things I've done and got away with'. (Daniel, Black/Black British, served 9 years)

Others had worked hard psychologically to rethink their role in the offence, in order to amplify *their contribution* to the murder. In the case of Jill (below), this meant attributing unwarranted levels of self-blame for disclosing her experiences of domestic violence to her co-defendants:

At the end of the day, I know in my case if it wasn't for me always going on about [the victim] and how he was horrible to me and raping me and so on to my [co-defendant] [...] and if I hadn't have gone to the [scene] with my [co-defendant], [the victim] wouldn't have let [the co-defendant] in on their own, so [...] over the years, you know, I did play a big part,

even though I didn't actually physically stab him. [...]the first few years, I said 'well, I don't fit. They can't call me a murderer. I haven't killed anybody'. But then it's only later on when you do look more into it that you think 'well, actually, yeah, you had a bit part in it, though. You might not have physically done it but you did have a big part in it.' (Jill, served over 15 years)

This process involved prisoners retrospectively redefining their actions as having led directly to the death of the person. In the absence of them feeling that they had *intended* to encourage or assist the murder or could have foreseen that it might occur (as required by law, pre-*Jogee*), individuals interrogated their memories, sometimes over many years, for traces of culpability. During this process they managed to identify how they might have contributed to each of the events that unfolded, in order to justify – and come to terms with – their murder conviction.

Other joint enterprise prisoners concluded that their *failure to act* contributed to the death of the victim:

When I first came to prison I used to be like 'Well, no I'm not guilty of murder' [...] but now I totally accept, do you know what, you *are* guilty of murder, because in the eyes of the law if you don't stop something then you are guilty. (Carly, served over 15 years)

In this sense, such prisoners felt that they were guilty by omission.

While institutional discourses are likely to have shaped the language that prisoners like Carly and Jill used after many years of imprisonment, our contention is that such 'acceptance' narratives had developed over time primarily for the purpose of psychological survival. Acceptance, then, was necessary to enable coping. This corresponds with the literature on 'meaning-making', which shows that distress can be caused by a perceived discrepancy between an individual's 'global meaning' (or their 'beliefs, goals, and subjective feelings' through which they 'interpret their experiences of the world') and their 'appraised meaning' (of a particular situation) (Park 2010: 258). The discrepancy between the global meaning and appraised meaning is assessed by the individual, with the degree of discrepancy determining the level of distress experienced. In response, efforts are made to 'make sense' of the situation so that the individual can 'adjust'.

The narratives of joint enterprise prisoners suggest that they engage in 'continuous revision' of their appraised meaning to fit it into their 'accepted rules or theories', about justice (Janoff-Bulman and Frantz 1997, cited in Park 2010: 260). Therefore, while it may appear that prisoners are describing legal legitimacy – that is, a belief that the rules of joint enterprise are just – a more nuanced investigation suggests otherwise. Indeed, even for individuals who had come to 'accept' their murder conviction, their internal moral conflicts often leaked out:

Do I think [the conviction is] fair? I mean [sighs] I don't know if 'fair' is the right word. I've accepted it. For the fact that somebody's lost their life. And I think I have done that for me to be able to get through my sentence. [...] Yeah I was there, yeah, I [...] met up with some people, but I didn't actually pull the trigger. You know, I didn't shoot anybody. And I had no

intention of doing that. So it's not fair in that type of way, you know? (Campbell, White European, served 9 years)

Acceptance over time by prisoners convicted of joint enterprise as secondary parties then was not a recognition of the 'genuine [legal] legitimacy' (Tankebe 2013: 106) of joint enterprise, but was instead a form of instrumental acquiescence based on the vital need for individuals to 'cope' over many years. Prisoners' descriptions were suggestive of a form of 'dull compulsion' (Carrabine 2004: 180); the fatalistic acceptance or pragmatic tolerance of their situation, which was not rooted in a new-found sense of legitimacy at all. This is more closely akin to what Tankebe (2013: 124) identifies as 'obligation' as, over time, joint enterprise prisoners felt it necessary to accept their legal status and conform to their legal sanction not for normative reasons but in order to survive the experience.

Conclusion

This paper provides a unique qualitative contribution to the literature on joint enterprise, arguing that questions about the legitimacy of the doctrine of joint enterprise (linked to distributive and procedural justice) should include 'legal legitimacy', both at the societal and individual level. Individuals, in the study presented here, who had relatively recently been convicted of murder as secondary parties explicitly denounced the legal legitimacy of the doctrine. For those further into their sentence, the apparent 'acceptance' of their conviction and sentence, we argue represents the basic human need to cope with extreme adversity, rather than demonstration of the legal legitimacy (or submission to an 'audit' narrative, as such). We have discussed elsewhere the ways in which prisoners adapt to and defend against long sentences in order to avoid drowning in their initial distress (Crewe, Hulley and Wright 2017; Wright, Crewe and Hulley 2017). Joint enterprise prisoners have the additional burden of deciphering why they are in prison for murder. Over time, they perform a mode of 'mind acrobatics' in which they put aside sincere feelings of unfairness and state their acceptance of their situation, in order to cope with it psychologically.

These findings compel us to consider the moral justifiability of convictions that remove (often young) men and women, and disproportionately BAME men, from society for decades at a time for behaviour that, by definition, does not constitute killing 'with the intent to kill or cause grievous bodily harm' (Crown Prosecution Service 2019b). It is important to consider not only the damage the system inflicts upon such young minds and bodies during lengthy periods of imprisonment, including the impact of suppressed and displaced feelings of illegitimacy about such sentences (Liebling et al 2014), but also the collateral damage of these convictions. Long-term imprisonment devastates psychological health, family relationships, future employment possibilities and economic wellbeing (see Liem and Kunst 2013: 333 on 'post-incarceration syndrome'), particularly for those wrongly convicted, who struggle to overcome feelings of unresolved anger and confusion on release (Grounds 2005). Despite the recent reinterpretation of the doctrine, there is little evidence of a drastic change in the application of joint enterprise or of joint enterprise prisoners being released on appeal. Consequently, what is estimated to be hundreds of individuals continue to serve extraordinarily long sentences for murders that they may have neither intended to occur, nor, in some cases, witnessed. In this context, we believe that there is a moral and practical imperative on those in power to change the law, not merely by 'tweaking' the joint enterprise doctrine - as seems to be the reality of the post-*Jogee* legal landscape - but by fundamentally

reviewing the law of murder and the formulation of the offence of being a secondary party, to offer a label and a resulting sentence that better represent the actions and intentions of each individual.

Funding

This work was supported by the Economic and Social Research Council (ESRC) [ES/J007935/1] and the Isaac Newton Trust.

References

Amnesty International (2018), *Trapped in the Matrix: Secrecy, Stigma, and Bias in the Met's Gang Database*. London: Amnesty International.

Beetham, D. (1991), *The Legitimation of Power*, London: Macmillan.

Bennathan, J., and Taylor, P. (2016), 'Jogee and joint enterprise – where to from here?: Historic convictions, appeals, and the Criminal Cases Review Commission.' London: Doughty Street Chambers. Accessed 30.05.18 from https://www.doughtystreet.co.uk/documents/uploaded-documents/2016_02_-_Bennathan_and_Taylor_on_Jogee.pdf.

Bureau of Investigative Journalism (2014), *Joint Enterprise: An investigation into the Legal Doctrine of Joint Enterprise in Criminal Convictions*, London: The Bureau of Investigative Journalism.

Carrabine, E. (2005), 'Prison Riots, Social Order and the Problem of Legitimacy', *British Journal of Criminology*, **45**: 896-913.

Crewe, B. (2011), 'Depth, weight and tightness: revisiting the pains of imprisonment.' *Punishment and Society*, **13**(5): 509-529.

Crewe, B., Hulley, S., and Wright, S. (2014). 'Written evidence provided to the House of Commons Justice Committee on Joint Enterprise: Follow up.' Available from <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/Justice/Joint%20Enterprise%20followup/written/10886.html>

Crewe, B., Hulley, S., Wright, S. (2016), 'Swimming with the tide: Adapting to long-term imprisonment', *Justice Quarterly*, **34**(3): 517-541.

Crown Prosecution Service, (2012), 'CPS Guidance on: Joint Enterprise Charging Decisions'. London: CPS.

Crown Prosecution Service (2018), 'Secondary liability; charging decisions on principals and accessories'. Accessed 23.05.28 from. <https://www.cps.gov.uk/legal-guidance/secondary-liability-charging-decisions-principals-and-accessories>

Crown Prosecution Service (2019a), 'Joint Enterprise Data'. Accessed 14.01.19 from <https://www.cps.gov.uk/joint-enterprise-data>.

Crown Prosecution Service (2019b), 'Homicide: Murder and Manslaughter'. Accessed 14.01.19 from <https://www.cps.gov.uk/legal-guidance/homicide-murder-and-manslaughter>.

Flanagan, T.J. (1980), 'The pains of long-term imprisonment: A comparison of British and American Perspectives', *British Journal of Criminology*, **20/2**: 148-156.

Fleetwood, J. (2015), 'In Search of Respectability: Narrative Practice in a Women's Prison in Quito, Ecuador', in L. Presser and S. Sandberg (eds.), *Narrative Criminology: Understanding Stories of Crime*. New York: New York University Press

Goffman, E. (1963), *Stigma: Notes on the Management of Spoiled Identity*, New Jersey: Prentice-Hall Inc.

Green, A. and McGourlay, C. (2015), 'The wolf packs in our midst and other products of criminal joint enterprise prosecutions', *The Journal of Criminal Law*, **74(4)**: 280-297.

Grounds, A. (2005), 'Understanding the effects of wrongful imprisonment', *Crime and Justice*, **32**: 1-58.

House of Commons Justice Committee, (2012), *Joint Enterprise: Eleventh Report of Session 2010-2012*. London: House of Commons.

House of Commons Justice Committee, (2014), *Joint Enterprise: Follow up. Fourth Report of Session 2014-2015*. London: House of Commons.

Hollway, W. and Jefferson, T. (2000). *Doing Qualitative Research Differently*. London: Sage Publications Ltd

Hulley, S., Crewe, B. and Wright, S. (2016), 'Re-examining the problems of long-term imprisonment', *British Journal of Criminology*, **56**: 769-792.

Hulley, S., Young, T., and Pritchard, G. (in progress), 'The Impact of Jogee on Police and Legal Practice'.

Jackson, J., Bradford, B., Hough, M. and Murray, K. H., (2012), 'Compliance with the law and policing by consent: notes on police and legal legitimacy,' in: A. Crawford and A. Hucklesby, (eds.) *Legitimacy and Compliance in Criminal Justice*, London, UK : Routledge.

Jacobson, J. (2016), 'Joint enterprise after Jogee: Implications for sentencing', *Sentencing News*, Accessed 18.07.18 from <http://eprints.bbk.ac.uk/16447/3/16447.pdf>.

Jacobson, J., Kirby, A., Hunter, G. (2016), *Joint Enterprise: Righting a Wrong Turn?*, London: Prison Reform Trust.

Liebling, A., Armstrong, R., Bramwell, R. and Williams, R.(2014), 'Prisons and the problem of trust', *Presentation presented at RAN P&P, December 2014*. Accessed 14.01.19 from <https://rm.coe.int/09000016806f5084>

Liebling, A., Tait, S., Durie, L., Stiles, A., and Harvey, J. (2005). 'An evaluation of the Safer Locals Programme: Final Report.' Accessed 24.02.15 from http://www.crim.cam.ac.uk/people/academic_research/alison_liebling/SaferCustodyReport.pdf.

Liem, M. and and Kunst, M. (2013), 'Is there a recognizable post-incarceration syndrome among released "lifers? ', *International Journal of Law and Psychiatry*, **36**: 333-337.

McAdams, D. (1988). *Power, Intimacy, and the Life Story: Personological Inquiries into Identity*. New York: Guilford Press.

Maddison, D., Ormerod, D., Tonking, S. and Wait, J. (2016), 'The Crown Court Compendium. Part I: Jury and trial management and summing up'. London: Judicial College.

May, H. (2000) "'Murderer's relatives": Managing Stigma, Negotiating Identity, *Journal of Contemporary Ethnography*, **29**(2): 198-221.

Ministry of Justice (2014). 'Prison Population Tables'. London: Ministry of Justice.

Mitchell, B. and Roberts, J.V. (2010), *Public Opinion and Sentencing for Murder: An Empirical Investigation of Public Knowledge and Attitudes in England and Wales*. London: Nuffield Foundation.

Murphy, K. and Cherney, A. (2012), 'Understanding Cooperation with Police in a Diverse Society', *British Journal of Criminology*, **52**: 181-201.

Murphy, K., Tyler, T.R. and Curtis, A. (2009), 'Nurturing Regulatory Compliance: Is Procedural Justice Effective when People Question the Legitimacy of the Law?', *Regulation and Governance*, **3**: 1-26.

ONS (2012). *Ethnicity and National Identity in England and Wales 2011*. London: Office for National Statistics. Accessed 06.08.18 from http://www.ons.gov.uk/ons/dcp171776_290558.pdf.

Park, C. (2010), 'Making Sense of the Meaning Making Literature: An Integrative Review of Meaning Making and its Effects on Adjustment to Stressful Life Events', *Psychological Bulletin*, **136**(2): 257-301.

Paternoster, R., Brame, R. Bachman, R. and Sherman, L.W. (1997), 'Do Fair Procedures Matter? The Effect of Procedural Justice on Spouse Assault', *Law & Society Review* Vol. 31, No. 1 (1997), pp. 163-204.

Presser, L. and Sandberg, S. (2015), 'Introduction: What is the Story?', in L. Presser and S. Sandberg (eds.), *Narrative Criminology: Understanding Stories of Crime*. New York: New York University Press.

Prison Reform Trust, (2016) Bromley Briefings Prison Factfile: Autumn 2016, Accessed 06.08.18 from <http://www.thebromleytrust.org.uk/files/2016factfile.pdf>.

Prison Reform Trust, (2017) Bromley Briefings Prison Factfile: Autumn 2017, Accessed 06.08.18 from <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Bromley%20Briefings/Autumn%202017%20factfile.pdf>

Richards, B. (1978), 'The Experience of Long-Term Imprisonment', *British Journal of Criminology*, 18/2: 162-169.

Schinkel, M. (2014), *Being Imprisoned: Punishment, Adaptation and Desistance*. London: Palgrave Macmillan.

Simon, J. (2001) 'Entitlement to Cruelty: Neoliberalism and the Punitive Mentality in the United States', in K. Stenson and R. Sullivan (Eds.), *Crime Risk and Justice*. Cullompton: Willan.

Sunshine, J. and Tyler, T.R. (2003) 'The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing', *Law & Society Review*, 37(3): 513-548.

Suter, J.M., Byrne, M.K., Byrne, S., Howells, K., and Day, A. (2002), 'Anger in Prisoners: Women are Different from Men', *Personality and Individual Differences*, 32: 1087-1100.

Sparks, J.R. and Bottoms, A.E. (1995) 'Legitimacy and Order in Prisons', *The British Journal of Sociology*, 46(1): 45-62.

Tankebe, J. (2013), 'Viewing Things Differently: The Dimensions of Public Perceptions of Police Legitimacy', *Criminology*, 51(1): 103-135.

The Committee on the Reform of Joint Enterprise (2011), Evidence presented to the House of Commons Justice Committee 2012. Accessed 08.08.17 from <https://publications.parliament.uk/pa/cm201012/cmselect/cmjust/1597/1597vw12.htm>

The Guardian (2016), 'Mother Hopes Joint Enterprise Will Overturn Sons Conviction. Accessed 29.05.18 from <https://www.theguardian.com/law/2016/feb/20/mother-hopes-joint-enterprise-verdict-will-overturn-sons-conviction>.

The Law Society Gazette (2014), 'Why Joint Enterprise is Unfair and Needs Changing'. Accessed 29.05.18 from <https://www.lawgazette.co.uk/practice-points/why-joint-enterprise-is-unfair-and-needs-changing/5045748.article>.

Tyler, T.R. (2006), *Why People Obey the Law*, New Jersey: Princeton University Press.

Virgo, G. (2014) Evidence to House of Commons Select Committee. Available from <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/Justice/Joint%20Enterprise%20followup/written/10873.html>

Williams, P. and Clarke, B. (2016), *Dangerous Associations: Joint Enterprise, Gangs and Racism*. London: Centre for Crime and Justice Studies.

Wright, S., Crewe, B., and Hulley, S. (2017), 'Suppression, denial, sublimation: Defending against the initial pains of very long life sentences.', *Theoretical Criminology*, 21(2): 225-246.

Youth Justice Board/Ministry of Justice, (2018), *Youth Justice Statistics 2016/17 England and Wales*. Accessed 06.08.18 from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/676072/youth_justice_statistics_2016-17.pdf