

BOOK REVIEWS

Guilty until proven innocent: the crisis in our justice system, by Jon Robins, Biteback Publishing, 2018; *Fake law: the truth about justice in an age of lies*, by The Secret Barrister, Picador, 2020

The Chief Inspector of Prisons Charlie Taylor said recently that with many jails in England and Wales now running limited regimes, it is the 13,000 remand prisoners who are mostly likely to spend 22 hours a day in their cells. On Sunday 4 December 2022, the BBC Radio 4 programme ‘The World This Weekend’ broadcast an interview with Sonya. She’s the wife of a man who’s been held in prison on remand for more than four years. He’s had no trial. He is innocent until proven guilty, and has been waiting for over four years to clear his name. She has brought up their child alone, their daughter has just turned four.¹ The report stated that there are more than 4,000 people who have been charged, denied bail and have been awaiting trial in prison on remand for over six months, more than 1,500 for more than two years, and more than 500 people for over four years.² Victims lose hope of seeing their case heard in court. Innocent people cannot defend themselves because their case doesn’t seem ever to come before a judge or magistrate. Lives disrupted or ruined, huge costs to the public purse: what is going wrong?

Jon Robins, who teaches criminology at the University of Brighton and is the editor of *The Justice Gap*,³ has written a readable, interesting and illuminating book that helps us to answer that important question.

The book throws light on the following issues:

- The criminal justice system requires a safety net as procedures will inevitably go wrong. However, there is no adequate safety net. He argues that the Court of Appeal fails today, as it has done in the past, to get to grips with miscarriages of justice, giving detailed accounts of many troubling instances to back his argument.
- There is no effective watchdog. The Criminal Cases Review Commission is seriously underfunded and overwhelmed and cannot do the job it was set up to do.
- As a result of a two-decade pay freeze on legal aid, very few lawyers are willing to undertake appeal work.
- There remain huge problems with disclosure and access to evidence.
- Failures in policing persist. ‘Tunnel vision’ and police misconduct continue to be a feature in producing miscarriages of justice.
- There continues to be a problem of poor legal defence. The inevitable consequences of the crisis in legal aid is that many defendants receive incompetent and inadequate legal representation.⁴

In parts this book reads like a thriller, as we follow the cases of people wrongly convicted and then imprisoned and the long and twisty road of their making appeal after appeal –

¹ <https://www.bbc.co.uk/sounds/play/m001fvp4> From 16:00 to 29:00

² See: <https://www.thejusticegap.com/women-in-prison-remand-in-custody/>

³ <https://www.thejusticegap.com/>

⁴ See: Desperate Measures: are asylum seekers getting good legal advice? Rona Epstein and Peter Walsh, *New Law Journal*, 21 July 2020.

eventually being declared innocent, after many years, and ruined and devastated lives. I recommend that you read this book. And do not despair. We can all use our voices to argue and campaign for a better criminal justice system.

Fake Law: the truth about justice in an age of lies is written by – no one knows! He or she publishes as ‘the Secret Barrister’ (SB for short) and this is SB’s second book, the first, *Stories of the Law and How It’s Broken* was very widely read and much discussed. The follow-up volume *Fake Law* is, like the first book, written with passion and conviction. It is highly readable and at the same time thought-provoking and informative, as well as troubling to those of us who would wish to see a justice system that is both efficient and fair.

Fake Law starts with the coverage in the British press of the cases of householders who have been prosecuted after attacking burglars – the court decisions frequently being presented as ‘you can’t defend your own property’. The author shows how far this is from the truth, and how much press reporting is deliberately inaccurate and misleading, and often downright wrong. It is a salutary lesson to see how some parts of the press distort the truth and how dangerous this can be.

Further chapters explain the truth behind calls to ‘save Charlie’s life’ when courts rule that the doctors have the right to end artificial ventilation of terminally ill children when it is the best interests of children in these rare and tragic cases. The author carefully explains what the expression ‘the best interests’ of the child means and narrates the public misunderstanding of recent cases where the courts have decided that the best interests of very ill children has meant their life support systems must be withdrawn. It is a difficult subject, and this book gives a very clear account of the issues, the ethics and the law.

Other topics are personal injury claims; employment law (the author points out that the public is taught little about their rights at work – according to a survey done in 2019 four out of five Britons are unaware of their employment rights). The issues discussed include:

- Human rights and the protections afforded by the European Convention on Human Rights. Here the author starts with a dramatic example of its use: the case of over 100 victims of the rapist John Worboys and the long struggle of some of his victims, ultimately successful, to obtain compensation from the government for the police’s failings over many years to investigate his crimes and to prosecute him. SB asks the questions: What is the truth about our human rights law?
- And why might the government be so eager to take the Human rights Act away from us?

The final chapters cover topics in equality and due process, democracy, the meaning and protection of liberty, and the book ends with an epilogue entitled ‘Our Future’. In a lively and readable way, this book reveals how the protections which should be provided by our laws can be subtly undermined by untrue and malicious reporting. I strongly recommend this clear, well-written and indeed fascinating book which will both entertain and inform you. It is a passionate defence of all that is good in our law and a call to us all to defend the principles of law and legal justice that are currently under attack.

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