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# England and Wales Court of Appeal (Criminal Division) Decisions

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**Neutral Citation Number: [2015] EWCA Crim 850**

Case No: 210304076, 201303825, 201303816, 201303815

**IN THE COURT OF APPEAL (CRIMINAL DIVISION)  
ON APPEAL FROM  
The Old Bailey Central Criminal Court (HHJ Rook QC)**

Royal Courts of Justice  
Strand, London, WC2A 2LL  
19/05/2015

**B e f o r e :**

**LADY JUSTICE HALLETT DBE  
MR JUSTICE SAUNDERS  
and  
MRS JUSTICE MCGOWAN DBE**

**Between:**

**(1) BASSAM ABDU KARRAR  
(2) KAMAR JAMIL  
(3) ANJUM JAVAID DOGAR  
(4) AKHTAR JAVID DOGAR**

**Appellants**

**and**

**Regina**

**Respondent**

**No representation by counsel for the 1st Appellant  
Sallie Bennett-Jenkins QC (instructed by SMQ Legal Services) for the 2nd Appellant  
Mark George QC (instructed by Khan Solicitors) for the 3rd Appellant  
Zarif Khan (instructed by Abbey Solicitors) for the 4th Appellant  
Neil Moore (instructed by the CPS Appeals Unit) for the Respondent**

**Hearing date: 22 April 2015**

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**HTML VERSION OF JUDGMENT** 

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**Lady Justice Hallett:**

**Background**

1. The provisions of the Sexual Offences (Amendment) Act 1992 apply. No matter relating to the victims may be reported if it is likely to lead to their identification.
2. The applicants were all convicted on 14 May 2013 of grave offences of sexual assault of young girls in what has been called in the media the "Oxford grooming trial". They all received life sentences with minimum terms reflecting very substantial notional determinate terms and concurrent determinate terms. One applicant wishes to appeal against conviction and another wishes to appeal against the life sentence, but the main issue raised in this appeal is the appropriate length of the notional determinate terms imposed.
3. The applicants were sentenced by the trial judge HHJ Rook QC on 27th June 2013.
4. The applicant, Akhtar Dogar, was convicted of three counts of conspiracy to rape, five counts of rape, two counts of arranging or facilitating child prostitution and one count of trafficking within the UK for sexual exploitation. He was sentenced to imprisonment for life and a minimum term of 17 years specified on the conspiracy to rape charges and concurrent determinate terms of 20 years, 10 years, 10 years and 8 years on the other counts respectively.
5. The applicant, Anjum Dogar, was convicted of three counts of conspiracy to rape, three counts of rape, two counts of arranging or facilitating child prostitution and one count of trafficking within the UK for sexual exploitation. He was sentenced to imprisonment for life and a minimum term of 17 years specified on the conspiracy to rape charges and concurrent terms of 20 years, 10 years, and 8 years on the other counts.
6. The applicant, Kamar Jamil, was convicted of two counts of conspiracy to rape, five counts of rape and two counts of arranging or facilitating child prostitution. He was sentenced to imprisonment for life and a minimum term of 12 years specified on the conspiracy to rape charges and concurrent terms of 16 years, 10 years and 8 years on the other counts.
7. The applicant, Bassam Karrar, was convicted of two counts of conspiracy to rape, two counts of rape, one count of rape of a child under 13, one count of conspiracy to rape a child under 13, two counts of arranging child prostitution and one count of trafficking within the UK for sexual exploitation. He was sentenced to imprisonment for life and a minimum term of 15 years specified on the conspiracy to rape charges and concurrent terms of 20 years, 17 years and 10 years on the other counts.

**Co-accused**

8. There were a number of co-accused.
9. Hussain was convicted of two counts of sexual activity with a child. He was sentenced to a total of 7 years imprisonment.
10. Zeeshan Ahmed was convicted of two counts of sexual activity with a child. He was sentenced to a total of 7 years imprisonment.
11. Mohammed Karrar was convicted of conspiracy to rape, arranging/facilitating child prostitution, rape, procuring a miscarriage, assault of a child by penetration and supplying a Class A drug. He was

sentenced to life imprisonment with a minimum term of 20 years.

### **Present proceedings**

12. Bassam Karrar renews his application for leave to appeal against conviction and sentence. Akhtar Dogar, Anjum Dogar, and Kamar Jamil each renew their application for leave to appeal against sentence.
13. We were asked to adjourn the hearing so that Jamil's counsel could advise on and perfect grounds against conviction and so that Akhtar Dogar's family could instruct Queen's Counsel to represent him. Both applications were refused. The single judge refused leave in December 2013 and it is time for the court to resolve as many of the outstanding issues as it can.

### **Overview of prosecution case**

14. The case involved the exploitation and corruption of children by a group of men in the Oxford area. The applicants targeted vulnerable girls as young as eleven and with troubled upbringings. Once they had recruited and groomed them, the girls would be sent out to recruit others. The applicants used a number of ways to groom the girls: showing them apparent love and affection, giving them gifts, and supplying them with drugs such as cannabis, cocaine, and heroin. They would also exercise extreme physical and sexual violence upon them and threaten them should they ever seek to escape. Six of the girls showed enormous courage in giving evidence against their abusers.
15. We can only give a flavour of the appalling and sustained abuse they suffered. It consisted of the men themselves engaging in sexual acts with the girls, alone or with others; and the girls being taken to other men to have sex with them often in groups and often in return for money. It included vaginal, anal and oral rape. It involved the use of a variety of objects such as knives, meat cleavers, baseball bats and various sex toys that caused physical injury. It was often accompanied by humiliating and degrading conduct such as the girls being bitten, scratched, urinated upon, suffocated, tied up, and burnt. Some had to endure men licking the blood from their injured vaginas and smelling their dirty or stained underwear.

### **Specific offending and the complainants**

16. AB was born in 1991. Her childhood had been unhappy. She often truanted from school and started smoking cannabis at the age of twelve. She was highly vulnerable. Between the ages of twelve and fifteen, she was the subject of sexual abuse at the hands of, amongst others, Akhtar Dogar, Anjum Dogar and Kamar Jamil. They reinforced their demands upon her by threatening to burn her house down, burn her little brother and kill her. They groomed her with drink, drugs, gifts and attention.
17. From the age of thirteen she was taken to empty houses, guest houses (including the Nanford Guest House) or hotels, all within the Oxford area, where she would be raped vaginally by the Dogars and Jamil. Akhtar Dogar orally and anally raped her. Jamil would force her to perform oral sex upon him. They would also take her to other locations to be raped by other men, often for money. The rapes were sometimes photographed and the images used to sell her services to others. If she refused to provide oral sex to Jamil or anyone else, she would have her head pushed down onto the man's penis and her hair pulled. Jamil would grip her by the throat and bite her. Strangers burned her with cigarettes or deliberately damaged her vagina. One almost throttled her. Others forced objects such as a hair brush inside her. If she struggled she was held down and made to comply, whatever the perverted demands of the man and whatever injury they caused her.
18. On one occasion she pretended to be menstruating. Akhtar discovered she was lying by putting his hand down her trousers. By way of punishment the Dogars and Jamil and an older man drove her to Shotover Woods at night. Another car containing four men attended. They threatened to cut her head off. She was told to get on her knees and give them all oral sex and swallow their semen. They then drove off leaving her alone late at night, covered in semen and her own vomit. She tried to find her way home but could not. She was forced to call one of the men for help. The Dogars and Jamil arrived in a car and took her to a house. She was put in a room; the men sat in the next room laughing. She felt that there was no point in trying to escape because the applicants would track her down and punish her.

19. The offending ended shortly after AB's fifteenth birthday by which time she was mentally and physically exhausted. She has been diagnosed with Post-Traumatic Stress Disorder. She suffers from bouts of anxiety and depression, self-loathing, has difficulty in relationships and has completely lost her self-confidence. She missed out on much of her education. Her parents have seen her change from a bright, intelligent, loving, open little girl into a sullen, secretive, evasive and frightened one who has lost all ambition for the future. The abuse has had a devastating impact on them too.
20. CD was born in 1991. From the age of five she lived in foster care. She spent much time on the streets of Oxford. She was a shy young girl, emotionally very immature and extremely vulnerable. She was introduced to the Dogars and Jamil by AB when aged fourteen. The Dogar brothers and Jamil raped her and took her to various other locations for other men to rape her. She would be given enough to drink to make her drunk. She was threatened with a gun. The Dogars and Jamil would also force her to give them oral sex. Sometimes Akhtar would ejaculate in her mouth. If she tried to resist she was forced physically to comply. Jamil would force her head onto his penis when necessary albeit she described him as not being quite as brutal towards her as the others.
21. EF was born in 1992. She regularly missed school, stayed out late with friends and consumed alcohol. She had several foster placements. She became acquainted with the Dogars and the Karrars. The Karrars knew she was only thirteen and extremely vulnerable. They deliberately alienated her from her mother and then trafficked her. She would be taken to guest houses including the Nanford, or other locations where she was orally and vaginally raped by other men, some of whom would make payment. If she tried to resist she was forced physically to submit. Photographs would be taken to use to advertise EF's unwilling services and customers were asked if they were satisfied with them. She was sent to London to act as a prostitute on at least five occasions. When she tried to escape, she and her mother were threatened.
22. Bassam Karrar was not involved in her trafficking but was convicted of her violent rape. On one occasion in November 2006 he took her to the Nanford Guest House. She consumed alcohol and initially engaged in consensual intercourse. Bassam Karrar then took cocaine. This made him "hyper". He prevented EF from leaving and punched her to the face and pulled her hair. Over the next two hours he vaginally raped her twice and continued to hit her. He bit her left breast and said he would kill her. At one point he had his hands around her throat and squeezed so that she could not breathe. He forced her head down onto his penis. She accidentally bit him which caused him to beat her more. After the second rape he took her to the shower and urinated on her. He pulled her labia so hard that she thought he wanted to rip her open. After the physical abuse he started to abuse her verbally telling her she was a whore and that he would kill her.
23. EF has now totally changed. She is ultra-fearful, cautious and unable to enjoy the sort of activities a young person should. She suffers from nightmares, panic attacks, flashbacks and depression. Although as a child she cannot bear any responsibility for her abuse, she feels that she carries a great burden of shame and embarrassment. The defendants' actions have also taken their toll on her mother, who used to roam the streets night after night searching for her child. As a result of the threats she has been forced to leave Oxford.
24. GH was born in 1993. She made a number of allegations against Bassam Karrar and his brother Mohammed. Mohammed Karrar met her when she was only eleven. He knew her age and the fact she cared for her parents. He groomed her and provided her with heroin and drugs until she became obsessed with him believing his promises of marriage. On one occasion she was vaginally and anally raped by Mohammed Karrar at the same time as Bassam Karrar raped her. Both before and after her thirteenth birthday Bassam Karrar vaginally raped her and the brothers took her to various locations where other men, some of whom paid, raped her. Bassam Karrar organised these sessions.
25. As a consequence of the abuse she became pregnant and underwent an illegal abortion. She was also forced to act out depraved sexual fantasies at sex parties and have objects such as a baseball bat inserted in her vagina. Mohammed Karrar prepared her for anal rape by a gang of men by using a pump on her anal passage. A ball was put in her mouth to keep her quiet as several men raped her. Mohammed Karrar also branded her with his initials near her anal passage. Video footage of her being raped was taken with a view to using it to sell her services. If she tried to resist, the Karrar brothers

would get angry with her and she would be held down until she submitted. When she could take no more and told Mohammed Karrar, she was subject to "terrible threats" and raped again.

26. Other girls were complainants at the trial and subject to similar treatment by the co-accused.

### **Background of applicants**

27. Character references were provided to the court for each applicant in which their family and friends suggested there may be another side to their characters. However pre-sentence reports indicated they have all been assessed as dangerous and the judge agreed with that assessment.

28. Akhtar Dogar is 34 years of age, Anjum Dogar 33, Kamar Jamil 29 and Bassam Karrar. None of them had previous convictions for sexual offences.

### **Grounds of Appeal**

#### **Akhtar Dogar**

29. Initially Mr Andrew Jeffries QC and Mr Khan advanced two grounds of appeal against sentence: that the judge was wrong to impose a life sentence and that the minimum term is manifestly excessive. They did not challenge the finding of dangerousness

30. Before us, Mr Khan realistically conceded that the first argument was unsustainable. Nevertheless, he maintained that the minimum term of 17 years to serve before possible release on parole is simply too long. It is the equivalent of a 34 year determinate term. As grave as these offences are, he insists a term of such a length is disproportionate to the level of offending and in the light of the applicant's personal circumstances. The applicant is described by friends and family as hard working, kind hearted, conscientious, and acutely conscious of his responsibilities to his family.

#### **Anjum Dogar**

31. Mr George QC has conceded that a sentence of life imprisonment was inevitable for Anjum Dogar given the gravity of offending. His application is also based on the length of the notional determinate sentence of 34 years. He invited the court to consider two factors particular to the case of Anjum Dogar which he claims were not properly reflected in the sentence passed. First, the applicant's age and personal circumstances: he was between twenty two and twenty six at the time of the offending and therefore relatively young. He has the advantage of testimonials similar to those relating to his brother. Second, he stopped offending before he was arrested. The last offence of which he was convicted was in 2008 and he was not arrested until 2012.

#### **Kamar Jamil**

32. On behalf of Jamil, Miss Bennett-Jenkins QC endeavoured to persuade us that Jamil was in a completely different category from the Dogar brothers and that the judge was wrong to find the applicant dangerous and to conclude that a life sentence was justified. Further, it was her contention that the minimum term was manifestly excessive.

33. The distinctions she drew were as follows: Jamil was aged between nineteen and twenty one at the relevant time, some years younger than the Dogars. He was treated as a man of effectively good character. His role was described by the judge as a follower rather than a leader the leadership role being played by the Dogars. His conduct was not marked with the same brutality in that the fourth complainant said he remained nice to her throughout. Also there were two victims of his offending rather than three. There was no evidence of criminal conduct against either girl after September 2006. His offending took place over two year period rather than a four year period. There is no suggestion of any continued preoccupation with young girls after the time of these offences

34. This, it is said, supports the proposition that the appellant voluntarily withdrew from the conspiracies. This was because by 2006 he had formed a relationship with a woman whom he later married and with whom he has three children, the oldest of which was born in the spring of 2007.

35. Miss Bennett-Jenkins concedes that the gang rape at Shotover was a particularly grave offence but she reminded the court he was not a prime mover. As is apparent from the report of Dr Meina, the appellant is of very 'low average' intellectual ability and is described as being 'gullible'. Accordingly, she argues, his role chimes with his acknowledged low intelligence.
36. She also took exception to the contents of the pre-sentence report which she fears may have overly influenced the judge. She claims that there are a number of potential flaws in the report and in the author's analysis of dangerousness. There are repeated references to the appellant's failure to provide meaningful responses and insufficient acknowledgement of the fact the applicant was on medication at the time and suffering from debilitating mental health problems. Further, the author took into account material suggesting the appellant contacted victims after 2006; yet evidence to this effect was not adduced at trial. Miss Bennett-Jenkins also complained that the author gave little if any regard to the dramatic change in the circumstances of the appellant following his apparent withdrawal from offending in September 2006. The appellant had a child, got married, had two more children and worked long hours throughout to support his family. There were numerous references from family and friends and his wife continues to support him. These factors must positively inform the assessment of risk.
37. Finally, she contends that the author of the report does not appear to have recognised the distinctions properly drawn between the offenders.
38. Accordingly she argued that the appellant can be sentenced without recourse to the provisions of s.225 Criminal Justice Act 2003 and the dangerousness provisions. He does not pose a significant risk.
39. Miss Bennett-Jenkins submissions on the notional determinate sentence of 24 years depended largely on the Sentencing Guidelines Council's Definitive Guideline for Sexual Offences which was in force at the time the offences were committed. She argued that it must provide at least a starting point for determination of the appropriate overall tariff. The highest category for repeated rape of the same victim over the course of time or rape involving multiple victims has a starting point of 15 years with a range of 13-19. If the starting point of 15 years is an appropriate bench mark to which aggravating and mitigating features should be applied, she argues that one does not reach the level of 24 years on the facts of Jamil's case.

## **Bassam Karrar**

### ***Conviction***

40. There is one ground of appeal against conviction namely:

"As a result of the prosecution's actions concerning a possible bad character application the applicant was unfairly deprived of the opportunity of giving evidence. Moreover it deprived him from calling character evidence."

41. The background to this complaint is as follows. On 15th October 2010 the applicant was convicted and sentenced for an offence of causing harassment, alarm or distress contrary to s.5 of the Public Order Act 1986. He was fined. Prior to the start of the present trial the prosecution served a written application dated 28 August 2012 seeking leave to adduce this conviction. The application argued that the applicant's previous conviction was admissible under s.101(1)(d) of the Criminal Justice Act 2003 in that it demonstrated a propensity to commit offences of the kind with which he was charged. In short, it was said that the applicant approached three girls and tried to lure them away for a sexual purpose. In a pre-trial review at Central Criminal Court on 30 November 2012 leading counsel for the defence stated that the bad character application was opposed and based on a false premise. The applicant entered his plea and was sentenced on the basis that the offence contrary to s. 5 was "non-sexual".
42. By the close of the prosecution case in March 2013 no bad character application had been made and no mention made of it as far as we can tell. The time came when the applicant had to decide whether or not to give evidence. He claims that he decided not to do so principally because he feared a possible bad character application. He was under the impression never corrected by the Crown that if he gave

evidence an application would be made. The applicant's argument is to the effect that the Crown failed to withdraw the application formally and thereby put the applicant under undue pressure. His decision not to give evidence was not freely made and led to an adverse inference direction.

43. We can deal with this proposed ground of appeal swiftly. There was nothing improper in the Crown's deciding to give notice of a bad character application and then deciding not to pursue it. There was no burden on them formally to abandon the application; it might have become relevant. If the defence wished to know the Crown's position, they could have asked. Even if the Crown then refused to give an unequivocal answer, it would have made no difference. It would not have amounted to undue pressure upon the applicant or deprived him of his freedom of decision. He had to make the decision whether or not to give evidence bearing in mind all the relevant factors. These included the possibility that his evidence may trigger a change of heart on the part of the Crown in relation to their bad character application. It might also have triggered an attack from one of his co-accused. It is clear he was properly advised on the competing arguments. This ground is unarguable and we are surprised it was advanced. We refuse the renewed application for leave to appeal conviction.

### ***Sentence***

44. The original grounds were two fold:

(1) The judge was wrong to conclude that the applicant posed a significant risk of serious harm to young girls.

(2) The minimum term of 15 years was manifestly excessive and significantly out of step with the relevant Guideline. The offences may have fallen at the very top of the range of seriousness but they were not of such seriousness that the judge should have departed from the Guideline. In addition a number of the concurrent terms were manifestly excessive. There was no abduction or detention of the girls whom he abused, nor any pregnancy, infections or abortions. There was no evidence of financial gain on his part.

45. Counsel attempted to distinguish between Bassam Karrar's offending and that of the others, particularly his brother. Bassam Karrar's offending related to two girls rather than three and the worst aspects of his offending related to just one girl. His brother was the prime mover in her abuse and responsible for some of the most horrific features of it. The applicant's offending was limited to trafficking her locally and without most of the additional perversions. It ended some years before his arrest, probably in 2009.
46. The applicant has been in work throughout and in a continuous relationship with the mother of his two daughters since 2003. His younger child was born in 2011.
47. We should add that although we understood that the first ground was abandoned, for the avoidance of doubt, we have considered it and the criticisms made of the assessment of dangerousness in the pre-sentence report. We have also considered the suggestion that the judge took a "generic approach" to the imposition of life sentences as opposed to an approach tailored to the facts of the individual offences and offender.

### **The legal framework**

48. Prosecuting Counsel, Mr Moore, helpfully provided a note on sentencing to the judge on the principles to be applied and we gratefully adopt much of it.
49. It is common ground that most of the offences of which the applicants were convicted fell to be considered under the dangerous offender provisions of Chapter 5 of the Criminal Justice Act 2003.
50. Section 225 applies where -
- (a) a person aged 18 or over is convicted of a serious offence committed after the commencement of this section, and

(b) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by him of further specified offences.

(2) If-

(a) the offence is one in respect of which the offender would apart from this section be liable to imprisonment for life, and

(b) the court considers that the seriousness of the offence, or of the offence and one or more offences associated with it, is such as to justify the imposition of imprisonment for life,

the court must impose a sentence of imprisonment for life.

51. These were serious offences within the meaning of the section and if the judge made the finding of dangerousness, as he did, he was then obliged to address the provisions of subsection 2. If they were met, he was also obliged to impose a sentence of life imprisonment. In any event, the judge was satisfied that the offences were so grave and so abhorrent that a discretionary life sentence outside the statutory regime would be justified. This issue has been considered in at least one recent case.
52. In *R v Saunders and others* [2013] EWCA Crim 1027 at paragraph 11 the court addressed the question of whether discretionary life sentences outside the statutory regime survive changes made to the dangerous offender provisions by Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO). It gave a clear answer that they do survive in an appropriate case. Some offences may involve a significant risk of serious harm to the public but are not included within the list of "specified" offences in the dangerousness provisions of the 2003 Act. The example is given of repeated offences of very serious drug supplying. The discretion to impose a life sentence in such circumstances was said to be unaffected by LASPO.
53. At paragraph 14 the court cited with approval a passage from *R v Wilkinson* (2010) 1 Cr. Ap p. R(S) 100 to this effect:
- "...as a matter of principle a discretionary life sentence under s.225 should continue to be reserved for offences of the utmost gravity. Without being prescriptive, we suggest that the sentence should come into contemplation when the judgment of the court is that the seriousness is such that the life sentence would have...a "denunciatory" value, reflective of public abhorrence of the offence, and where, because of its seriousness, the notional sentence would be very long, measured in very many years".
54. We have the additional benefit (denied to the trial judge) of the judgment in Attorney-General's Reference (No 27 of 2013) (*R v Burinskas*) [2014] EWCA Crim 334 which post dated the sentencing exercise. The court, over which Lord Thomas CJ presided, was solely concerned with life sentences passed under s 224A and s.225 of the CJA 2003 as amended by LASPO. The court stated at paragraph 6 that it was specifically not dealing with:

"i) Mandatory life sentences which are governed by a different statutory regime recently considered by this court in *McLoughlin and Newell* [2014] EWCA Crim 188.

ii) Discretionary life sentences passed other than under s.224A or s.225 of the CJA 2003. In *R v Saunders* [2013] EWCA Crim 1027, Lord Judge CJ expressed the view of the court that discretionary life sentences could still be passed other than under s.224A and s.225 of the CJA 2003 (see paragraph 11). Some commentators have questioned that view in the light of the provisions of s.153 of the CJA 2003. We would simply observe that this questioning runs contrary to the Guideline of the Sentencing Guidelines Council at page 24, paragraph 1 (b) of the Sexual Offences Guideline,

"Life imprisonment is the maximum for the offence [of rape].  
Such a sentence may be imposed either as a result of the offence



itself where a number of aggravating factors are present, or because the offender meets the dangerousness criterion"

Since there is no case before us upon which this issue arises, even tangentially, there is nothing to be gained from considering the question further, still less endeavouring to come to conclusions in the absence of a specific case."

55. The decision in Saunders was not disapproved therefore and remains binding on us. Counsel did not suggest otherwise. Discretionary life sentences outside the statutory regime remain available to the court. The court in Burinskas did, however, provide guidance on the imposition of life sentences under the statutory regime. It considered the meaning of the condition set out in s.225(2)(b) CJA 2003 and whether the approach to the imposition of life sentences under the statutory regime remained the same with the abolition of sentences of imprisonment for public protection. It held at paragraph 22:

"In our judgment, taking into account the law prior to the coming into force of the CJA 2003 and the whole of the new statutory provisions, the question in s.225(2)(b) as to whether the seriousness of the offence (or of the offence and one or more offences associated with it) is such as to justify a life sentence requires consideration of:-

i) The seriousness of the offence itself, on its own or with other offences associated with it in accordance with the provisions of s.143(1). This is always a matter for the judgment of the court.

ii) The defendant's previous convictions (in accordance with s.143(2)).

iii) The level of danger to the public posed by the defendant and whether there is a reliable estimate of the length of time he will remain a danger.

iv) The available alternative sentences.

23. It is inevitable that the application of s.225 in its current form will lead to the imposition of life sentences in circumstances where previously the sentence would have been one of IPP. It is what Parliament intended and also ensures (as Parliament also intended), so far as is possible, the effective protection of the public.

56. Thus, the "denunciatory value test", which used to be applied to justify a discretionary life sentence as against a term of imprisonment for public protection when two forms of indeterminate sentence were available, no longer applies, in the sense that the Court does not now have to reach such a conclusion before imposing a life sentence. The consequence may be that more life sentences are imposed than were imposed before the changes implemented by LASPO.

### **Length of the notional determinate sentences**

57. We turn to the length of the minimum term. Counsel raised the question of the so-called "anomaly" whereby a prisoner sentenced to life, eligible for release after serving the minimum term of his sentence, might be released earlier than a prisoner required to serve two-thirds of the custodial term of an extended sentence. This issue was addressed by the court in Burinskas and the suggestion that this should affect the calculation of the appropriate minimum term of a life sentence firmly rejected.

58. The next question is the extent to which sentencing guidelines can assist in setting the minimum term of a life sentence on these facts. The requirement to have regard to the Guidelines was considered in Attorney-General's References (Nos 7, 8 and 9 of 2009) (McMorris, Brew and Muaimba) [2010] 1 Cr. App. R. (S.) 67 where it was submitted a sentence could not be unduly lenient where the sentencing judge had correctly addressed and applied the Guidelines. Lord Judge C.J. said:

"39. The force of that submission depends on the nature of the judicial responsibility to attend to and apply such guidance. At present, by statute, a judge must have regard to the definitive guidelines issued by the Sentencing Guidelines Council. But in the end a judge has to do justice in the circumstances of an individual case. It is well established under the

current legislation that, provided the judge has had regard to a definitive guideline, he is entitled, if he has reason to do so and is prepared to articulate his reasons, to disregard it if, by following it, an injustice would result. Sometime justice will require a more merciful sentence than a guideline level may indicate; sometimes a more severe one. Sometimes the facts of the case will not fit into the structure of any definitive guideline."

59. Similarly, in Attorney-General's References (No. 90 of 2009)(Steven) [\[2010\] 2 Cr App R \(S\) 27](#) Lord Judge C.J. said [para. 41]:

"There are some cases, and this is one of them, in which the culpability and criminality of the offender are beyond the ambit of any guideline case or definitive guideline issued by the Sentencing Guidelines Council. It is not possible to cater for a crime like this."

60. This means that there are cases where the guideline is likely to be of little, if any, assistance to the sentencing judge. It may help in identifying aggravating and mitigating features of more general application and it may be interesting to note the level of sentence at which departure from the guideline becomes necessary; but it is unlikely to provide the "starting point" as Miss Bennett-Jenkins claimed. The current Sentencing Council Guideline, for example (which does not differ greatly from its predecessor in its starting point and ranges for the most serious offences of rape) provides a range of aggravating and mitigating features that may be helpful and includes in bold the following sentence: "Offences may be of such severity, for example involving a campaign of rape, that sentences of 20 years and above may be appropriate."

61. The most recent review of the appropriate level of sentence for campaigns of rape and offending of this severity appears in the judgment of Treacy LJ in 'DJ' [2015 EWCA Crim 563](#). Amongst the cases considered were a number upon which Mr George placed reliance to argue that the sentences imposed here were too long, including R v Coles [2010] EWCA Crim 320 and Coleman. The details of Coleman are to be found in the Burinskis judgment. Coles raped and assaulted five victims aged eleven to fifteen over a period of eight years in a campaign of rape with little or no additional violence. A notional sentence of 20 years on a term of imprisonment for public protection was upheld. Coleman had committed countless rapes of a young female relative to whom he owed a duty of care over a ten year period when she was aged between five and sixteen. There was just the one victim but she was subjected to significant violence and there were indecent image offences. The custodial term of an extended sentence was reduced to 27 years prior to credit for a guilty plea. The offending in DJ consisted of a "very large number of serious sexual offences committed against young girls over a considerable period". They included rape, sexual activity with a child, taking and possessing indecent images of a child and grooming. There were nine victims. The custodial term of an extended sentence was reduced from 33 years to 30 years.

## Conclusions

62. Sadly this is not the only case of child exploitation to come before the courts in recent years. However, it is one of the worst to date.
63. The applicants took vulnerable young girls and treated them in a depraved, sadistic and brutal fashion; not content with using them as their own sexual objects they encouraged others to do the same, often for money. The applicants treated the girls as less than human. It should be remembered also that the offences of which the applicants were convicted involved the commission of numerous other offences, many of which are grave in their own right. They include offences not far removed from torture, supplying class A drugs to children, and false imprisonment.
64. The impact upon the victims has been devastating and of the utmost severity. They have been scarred for life. Families have suffered greatly too.
65. It beggars belief that men who claim to pride themselves on being family men, some with daughters of their own, could treat other people's daughters in this way and that exploitation of children of this kind could persist for so long in twenty first century Britain. This kind of behaviour cannot be tolerated in a civilised society. Members of the public have been horrified and rightly expect those responsible to receive severe sentences as a punishment and as a deterrent to others. A discretionary life sentence

coupled with a lengthy notional determinate term is a severe sentence, generally reserved for crimes of the utmost gravity, but these were crimes of the utmost gravity, whatever the roles played by the applicants.

66. We reject the suggestion that the judge failed sufficiently to distinguish those roles. His sentencing remarks are full, fair and very carefully structured. He explains in some detail his approach to the sentencing of each individual. As the trial judge he was best placed (a) to make the assessment of dangerousness and (b) to decide on the seriousness of the offending. He heard all the evidence during the course of the trial. Whatever criticisms can be made of the contents of the pre-sentence report, the judge stated in terms that he intended to make his findings based on that evidence and nothing else. We are satisfied that the judge was correct (as is generally conceded) to conclude that the applicants are all dangerous and that life sentences were inevitable for offences as serious as these.
67. We turn to the notional determinate terms. We see considerable force in the Respondent's submission that this is one of those cases for which the guidelines were not intended and previous decisions can provide only limited assistance. If they were of any relevance, the circumstances of the offences committed by the applicants themselves upon each victim, considered in isolation, would place them at the highest end of the range in the most culpable category. Similarly, the offences which involved making arrangements for other men to commit sexual offences upon the victims would have merited sentences at or beyond the highest range in the most culpable category. However, the offending went much further: there was more than one victim of each of the offenders and a multiplicity of aggravating features to be factored in.
68. We list just a few of them: the offenders operated in gangs and deliberately targeted vulnerable children. They used the children for their own sexual purposes and so as to make money from them by selling their sexual services to other men. The girls were groomed, supplied with drink and drugs, threatened and beaten. The violence used on them went far beyond what was necessary to ensure their submission. The girls were subjected to sustained sexual assaults of the gravest kind including gang rapes coupled with additional degradation and humiliation. There is little mitigation.

### **Akhtar Dogar and Anjum Dogar**

69. Both the Dogar brothers were involved in the Shotover rapes. Their depraved conduct involved the brutal sexual exploitation of three young vulnerable girls. Taking into account, as the judge was obliged to do, the manner in which they were targeted, groomed and abused, the number of strangers involved in the offending and on occasion the depraved nature of the sex, the repeated abuse and duration of the offending, and the serious psychological harm their actions caused, we are satisfied the life sentence and minimum term of 17 years and the concurrent determinate terms cannot be described as excessive. Seventeen years is an extremely long minimum term for offences other than murder but in our judgment deservedly so.

### **Kamar Jamil**

70. The judge accepted all the factors urged upon us by Miss Bennett-Jenkins. He was a follower not a leader. His conduct was not marked to the same extent with brutality as the Dogars' conduct was. There were two, not three, victims of his offending and there was no evidence of criminal conduct towards either girl after September 2006. However, he willingly participated in two conspiracies to rape covering a two year period and fully participated in the group rape at Shotover. The effect of his conduct on his victims was devastating. There can be no legitimate complaint about the life sentence, the minimum term of 12 years or the concurrent determinate terms.

### **Bassam Karrar**

71. Bassam Karrar's offending involved two victims and included a brutal and violent rape of EF when she was only fourteen. It consisted of a prolonged assault involving sexual and physical violence, degradation and humiliation. He was also involved in extremely grave offences involving GH. The applicant himself raped her when she was both under and over thirteen, once together with his brother. He arranged sex parties at which she was forced to act as hostess and endure grotesque sex acts. Numerous other men would rape her when she was both under and over thirteen in return for money.

He helped his brother ensure her compliance. In our view the life sentence and minimum term of 15 years coupled with the concurrent determinate terms properly reflected the fact that his offending was of an extremely serious nature.

72. For all those reasons, Karrar's application for leave to appeal against conviction is refused. We give leave to appeal against sentence to each applicant but dismiss the appeals.

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