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## CHAPTER XI

### THE UK INNOCENCE MOVEMENT: PAST, PRESENT, AND FUTURE?

*Holly Greenwood\**

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#### **1. Introduction**

The last decade has witnessed an “innocence movement” in the UK with innocence projects being established at numerous universities. Michael Naughton is considered to be the founder of the UK innocence movement. In 2005 he set up the University of Bristol innocence project and the Innocence Network UK (INUK) which was an umbrella organisation for innocence projects being established across the UK. Over the last decade, INUK has actively assisted in setting up thirty-six innocence projects in the UK, with thirty-five set up at universities and one in a law firm. There were also two innocence projects that were created independently from the network at Leeds University and Westminster University. Despite the vast number of projects that have been in operation at various times over the last decade, there has been little official success in overturning the convictions of innocence project clients. As of 2015, there has only been one innocence project which has succeeded in overturning a conviction of a client, which was the case of Dwaine George at Cardiff University in December 2014, nearly ten years into the movement. The only other innocence project to have cases reach the Court of Appeal was Bristol University, run by Michael Naughton, which succeeded in having two cases heard at the Court, but these convictions were upheld. In the summer of 2014, Michael Naughton announced his decision to fold INUK as a membership organisation for innocence projects. This decision

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brought into sharp focus the difficulties which the UK innocence movement has faced and marked the beginning of a period of uncertainty over the future of innocence projects in the UK. This chapter intends to provide an insight into the innocence movement in the UK by drawing on original empirical research. The research involved interviews with sixteen leaders of innocence projects across the UK. The interviews explored the aims and objectives of the participants, their experiences running the projects, and their views to the future for the movement. This chapter will reflect on the movement as a whole, in particular it will discuss some of the difficulties and challenges which innocence project leaders have faced and explore what the future landscape for such work may look like.

## **2. The UK innocence movement: the background**

As explained, Michael Naughton is considered to be the founder of the UK innocence movement. Naughton established the University of Bristol innocence project in 2005 and also set up INUK which facilitated the establishment of innocence projects across the UK. Naughton considered that there was a need for innocence projects because “significant gaps exist in the legal provisions available to innocent victims who require help and hope in overturning their wrongful convictions”<sup>1</sup>.

Naughton was particularly concerned with how the current UK legal system dealt with criminal appeals, in particular the remit and operation of the Criminal Cases Review Commission (hereafter CCRC). The CCRC was established by legislation in 1995 and began operating in 1997 following recommendations from the Royal Commission on Criminal Justice (RCCJ)<sup>2</sup>. The RCCJ was set up to look into the criminal justice system in the UK following a number of high profile miscarriages of justice in the late 1980’s and early 1990’s. It suggested the establishment of an independent body to investigate cases of potential miscarriages and refer them to the Court of Appeal; this led to

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<sup>1</sup> M. NAUGHTON, *Wrongful Convictions and Innocence Projects in the UK: Help, Hope and Education*, in *3 Web JCLI*, 2006, <http://webjcli.ncl.ac.uk/2006/issue3/naughton3.html>.

<sup>2</sup> *The Royal Commission on Criminal Justice - Report*, 1993, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/271971/2263.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/271971/2263.pdf).

provision being made for the CCRC to perform this role. After conviction, an individual has the right to appeal directly to the Court of Appeal, but following this the only route back to the court is through a referral from the CCRC. The CCRC are subject to a statutory test in s.13 Criminal Appeal Act 1995, which states they may only refer a case to the court where they think there is a “real possibility” that the conviction would not be upheld. Naughton saw this test as a “statutory straitjacket” which tied the CCRC to the Court of Appeal hindering its independence<sup>3</sup>. He was also concerned about the technical approach adopted in relation to potential miscarriage of justice cases within the system. The Court of Appeal’s statutory test is set out in s.2 of the Criminal Appeal Act 1995, which states that the court s.2(1)(a) shall allow an appeal against conviction where they think the conviction is unsafe.

However, despite this apparent broad basis for consideration of cases, this is subject to s.23 of the Criminal Appeal Act 1968 (amended by s.4 CAA 1995) which states: the court may receive any evidence it considers necessary or expedient “in the interests of justice,” which was not adduced in the proceedings from which the appeal lies. This means the applicant must usually demonstrate fresh evidence that undermines the safety of the conviction or show there was an error in law or procedure. Naughton asserts that this illustrates the “technicality” of the appeal system and the barriers to overturning wrongful convictions where evidence supporting innocence may exist but cannot be re-heard<sup>4</sup>. Furthermore, the real possibility test effectively ties the CCRC to the Court of Appeal and therefore means they are also bound by the same restrictive appeal grounds. Naughton explained the effect of s.13 meant that the CCRC’s resources are not directed appropriately. It means they can refer cases for appeal where the offender appears factually guilty if there has been a procedural error, but are “helpless” to refer cases of factually innocent victims of wrongful conviction

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<sup>3</sup> M. NAUGHTON - G. TAN, *The right to access DNA testing by alleged innocent victim of wrongful convictions in the United Kingdom*, in *International Journal of Evidence and Proof*, 2010, 326, p. 342.

<sup>4</sup> M. NAUGHTON, *The Criminal Cases Review Commission - Innocence versus safety and the integrity of the criminal justice system*, in *58 Criminal Law Quarterly*, 2012, 207, p. 214.

if the case does not meet the real possibility test and satisfy the Court of Appeal's requirements<sup>5</sup>.

Naughton was concerned that the current system was problematic for factually innocent victims of wrongful conviction. He considered there was a need for innocence projects to be established in the UK to focus on cases of potential "factual innocence," rather than cases where the conviction may be unsafe purely on technical grounds. He explained that INUK innocence projects "are concerned with allegations of factual innocence as opposed to allegations of technical miscarriages of justice"<sup>6</sup>. Weathered and Roberts (who both run innocence projects) explained that innocence projects' focus on "factual innocence" meant they would define "innocence" in lay rather than legal terms<sup>7</sup>. Therefore, innocence projects would be interested in claims that the individual is innocent of the crime for which they were convicted, rather than claims by a defendant that their conviction is unsafe because of a legal or procedural error<sup>8</sup>.

Naughton explains that innocence projects would take a different approach to investigation: "in contrast to the current appeal process, INUK's innocence projects are not restricted to the search for fresh evidence that shows that criminal convictions may not be 'safe in law'<sup>9</sup>". He explains further "innocence projects are not hindered by the requirements of the legal system and, rather, seek to get to the truth of innocence claims<sup>10</sup>". Therefore, Naughton envisioned an innocence movement which would focus on actual wrongful conviction and carry out truth-finding investigations in an effort to help those individuals claiming factual innocence.

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<sup>5</sup> M. NAUGHTON - C. MCCARTNEY, *Innocence Projects in the UK – the story so far*, in 40(1) *The Law Teacher*, 2006, p. 74.

<sup>6</sup> M. NAUGHTON, *Innocence Projects: Information Sheet from Inside Time*, in *Inside Time, the National Newspaper for Prisoners and Detainees*, 2006.

<sup>7</sup> S. ROBERTS - L. WEATHERED, *Assisting the factually innocent: the contradictions and compatibility of innocence projects and the Criminal Cases Review Commission*, in *Oxford Journal of Legal Studies*, 2009, 43, p. 44.

<sup>8</sup> S. ROBERTS - L. WEATHERED, *Assisting the factually innocent: the contradictions and compatibility of innocence projects and the Criminal Cases Review Commission*, cit., p. 44.

<sup>9</sup> M. NAUGHTON, *Can lawyers put people before the law?*, in *Socialist Lawyer*, 2010, p. 32.

<sup>10</sup> M. NAUGHTON, *The Importance of Innocence for the Criminal Justice System*, in Id. (ed.), *The Criminal Cases Review Commission – Hope for the Innocent?*, Palgrave Macmillan, 2009, p. 32.

Furthermore, Naughton set up INUK with the aim of carrying out research into the problematic area of miscarriages of justice. He described the overall aim of INUK as to “to improve the criminal justice system by overturning convictions given to factually innocent people and effecting reforms of the criminal justice system to prevent such wrongful convictions from occurring in the future<sup>11</sup>”. The network evolved as an umbrella organisation for innocence projects being set up across the UK and assisted the establishment of thirty-six projects. It also aimed to ensure quality of innocence project casework by providing a standard set of protocols which universities would be expected to work towards in carrying out casework. As director of INUK, Naughton also managed a database of letters from prisoners who wrote in seeking assistance with appealing their conviction and carried out a sifting process to identify cases which were eligible for casework by innocence projects.

His eligibility criteria considered whether it was possible the applicant may be innocent and whether there was something that an innocence project could do to prove or disprove that claim<sup>12</sup>. He would then send cases which were on the waiting list to member innocence projects when they had the capacity to work on a case. This ensured that queries from prisoners were properly managed and gave prisoners a contact point which avoided them writing to a number of organisations, and also prevented potential duplication of casework by different clinical ventures. INUK also held student training for member innocence projects for a number of years and held bi-annual conferences for member universities where there would be presentations on the topic of miscarriages of justice and talks from victims of wrongful conviction. Therefore INUK offered a promising basis for the innocence movement in the UK, which envisioned a foundation for collaboration and a support network for those universities involved in such work. It represented the possibility for a nationwide movement that would provide education about problems with the criminal justice system and would also provide a last resort for prisoners who were struggling to get access to justice in appealing their convictions.

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<sup>11</sup> Innocence Network UK Website <http://www.innocencenetwork.org.uk/about-us> (accessed 31/10/2012).

<sup>12</sup> <http://www.innocencenetwork.org.uk/inuk-new-beginnings> (accessed 29/06/15).

However, in the summer of 2014, Naughton announced his decision to fold INUK as a membership organisation for innocence projects. At the time of its announcement, there were still twenty-five member projects listed on the website, although it is known that some of these projects had already made the decision to leave the network before this announcement.

Naughton cited a number of reasons for having to fold INUK in its current form. Firstly, the funding constraints of INUK meant it could no longer operate as a support service for member projects which involved an assessment of eligible cases and organising national conferences, but with a number of other roles beyond this<sup>13</sup>. Secondly, tied into this, Naughton explained that a disproportionate amount of time was being spent on supporting innocence projects which failed to act in accordance with the protocols set down, or were inactive in casework; he also explained he had to deal with complaints from prisoners who were dissatisfied with the work of member projects<sup>14</sup>. He explained that INUK has never had the capacity to “police” member projects and nor was it intended to have to adopt this role<sup>15</sup>. Thirdly, he was concerned that a number of students were using innocence project work as a CV booster whilst knowing little or nothing about INUK and failing to attend conferences<sup>16</sup>. Lastly, Naughton explained that the number of eligible cases which INUK was receiving had dried up and that there were only a few in two hundred applications that met the criteria<sup>17</sup>. It is evident from this that Naughton was overburdened in running INUK in its capacity as a membership organisation and that there were problems with a number of projects that were operating. The folding of the network was undoubtedly a huge loss to the innocence movement in the UK and demonstrated that the movement has been, and is still, in a fragile state. It is intended to explore some of the problems which the UK innocence movement has faced through drawing on empirical research.

### **3. Research summary**

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<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.* (n.12).

<sup>15</sup> *Ibid.* (n.12).

<sup>16</sup> *Ibid.* (n.12).

<sup>17</sup> *Ibid.* (n.12).

This chapter will draw on original empirical research carried out at Cardiff University and funded by the Economic and Social Research Council<sup>18</sup>. The research has involved exploring the innocence movement in the UK through semi-structured interviews with past and present leaders of a number of UK innocence projects. The interviews explored the aims and objectives of participants in running the project; their approach to casework and investigation; the challenges of innocence project work; and how they perceived success and the future of the movement. The research involved interviews with sixteen participants across thirteen innocence projects. There were also interviews carried out with three participants who ran other university clinics involved in criminal appeal work but which were not termed “innocence projects” as a counterpoint to the innocence project model. This research was deemed necessary, as despite a large number of innocence projects having been in operation over the last decade there was little known about how they were operating in practice. The existing literature about the aims and roles of innocence projects was largely produced by Michael Naughton and Gabe Tan from Bristol, with contributions from other innocence project leaders such as Julie Price and Dennis Eady from Cardiff University, Carole McCartney from Leeds University and Stephanie Roberts from Westminster University. Therefore, it was considered of importance to carry out research to investigate how innocence projects were operating in practice across the UK. The research has been ongoing for the past three years, during which there has been a considerable amount of flux in the innocence movement, and therefore it is of importance to understanding how the movement has evolved and developed in recent years.

#### **4. The UK innocence movement: an overview**

It is clear that the UK innocence movement has faced a number of setbacks during the last ten years. The lack of official success at appeal level is perhaps a cause for concern.

Furthermore the closing of INUK suggests the nationwide innocence movement is in a state of fragility. It is intended to firstly discuss some of the problems which innocence project

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<sup>18</sup> Holly Greenwood, PhD candidate, Cardiff University.



leaders have faced in running the project to provide an insight into difficulties faced by those involved in the innocence movement. This will consider potential limitations to the effectiveness of innocence projects by examining problems with the UK innocence project model, and then a consideration of some of the systemic problems interviewees described. The discussion will then move on to consider how participants viewed the future for the innocence movement in the UK. This chapter will conclude by reflecting on the UK movement and a consideration of what the future landscape for this work may look like.

#### *4.1. Limitations of the innocence project model*

What is the typical model of an innocence project in the UK? There are a number of variations in the way innocence projects are run at different universities. However, the basic model is that university students investigate claims of factual innocence from applicants with a view to helping the prisoner appeal their conviction, under supervision from a member of staff. Innocence projects have variations in their models within this. Projects are generally based in law schools, criminology schools or journalism schools. Some university innocence projects are run by academics who oversee the students in their casework, whilst others may be ran by ex-practitioners who now work at the university, but may not necessarily have a background in criminal work. Of the thirteen projects in the research sample, there were three which were run by ex-criminal practitioners; three were run by individuals who were pro bono directors managing all the schemes at their University (two of which have now recruited individuals with an academic specialism in miscarriages of justice to oversee the project); five were run by academics, some of which may have been in legal practice but not in criminal law; and the remaining two were based in journalism schools and run by journalists. It is not necessary to have a practising certificate in the UK in order to write applications to the CCRC, because the CCRC accepts applications from prisoners without legal representation (however, it has been found that having legal representation helps

succeeding at this stage)<sup>19</sup>. One participant directly raised the lack of criminal practitioners running projects in the UK as a significant problem with the innocence movement, participant 2 considered: “throughout all of these universities that were involved at the beginning, none of us had the expertise that we needed really for this movement to properly be able to grab the casework problem by the neck, and I think that is the ongoing problem...I think that’s part of the reason, if I’m philosophically looking at why the innocence project movement, I don’t think, will succeed in this country, I think that’s part and parcel of it, and there are very few practitioners that are running innocence projects”. Interestingly, participant 5 who had ran an innocence project in a journalism school, but had left the role to train as a barrister, echoed this view: “I don’t think you can run an innocence project if you’ve never stepped foot inside a courtroom, I think you’ve got to be a practicing barrister or solicitor advocate who understands how cases are put together”. It was originally intended in the INUK model of innocence projects that they would liaise with criminal practitioners in order to gain expert advice concerning their casework. However, this has been difficult to realise as practitioners in the criminal sector are extremely over stretched in carrying out their own work. This was raised by participant 11: “again that’s another issue why the INUK model is unsustainable because you’re heavily reliant on criminal practitioners who are also under stress and strain of their own time to offer free advice”. Similarly, this was raised by participant 2 who explained that they did originally try and liaise with practitioners, but this became difficult to maintain: “we used to actually call upon the solicitors, some of them used to come in...it was a different model to what we’ve got now, because as time has evolved, we’ve realised that practitioners are very very busy and it’s quite difficult to get that ongoing relationship with them”. Therefore, there was some recognition from participants that there are limitations to having academics running innocence projects. Whilst this was intended to be mitigated through practitioner involvement, there is an indication that this has been difficult to sustain.

There were also other problems raised in the interviews with the innocence project model in the UK. Participant 2 considered

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<sup>19</sup> J. HODGSON - J. HORNE, *The Extent and Impact of Legal Representation on Applications to the Criminal Cases Review Commission (CCRC)*, 2009, Available at SSRN: <http://ssrn.com/abstract=1483721>.

that the innocence project model was unsuited to the usual clinical legal education programmes at universities in the UK: “cases take too long and don’t fit within the usual clinical education model, so every single innocence project that I know has got similar problems so there’s a fundamental problem. The model doesn’t work in my opinion”. She explained further that this is a problem because students have short term times at university: “It’s a very very small period of time when they can be doing this and that lends itself to quick turnaround stuff like the general legal clinic stuff, but not to innocence it doesn’t”.

Other participants raised this issue with the model and its consequent delay to casework. Participant 8 considered: “I suppose here the biggest problem is that I only have my students available for a short period of time, by the time I recruit them and train them it’s November and then they have November, December, January, February, March and then in April I start to lose them and by May they’ve gone, and that’s probably about 60 or 70% of my students”. Participant 10, who left her role managing the innocence project at the University, explained this was a challenge for her as director, especially because the innocence project was an integrated module: “It is difficult because often the students weren’t there in the summer...it was a module, so when the module ended they went. So those non term times were difficult in that I still would then have to manage the cases, be around, be monitoring the cases and working on them and that was challenging”. There were a further five participants who raised this as a difficulty with running an innocence project, citing the short term times and therefore the limited student availability for casework.

There were four participants who also recognised this raised significant ethical issues from a client perspective. One example is participant 11 who explained that he had started to recruit student interns for the summer months to keep the project active because of this: “we’ve gone from being it’s about the students, we would only work on cases between sort of September and say April before their exams start and then the rest of the time was just dead time you know...and when you’ve got clients that are in prison there’s this huge issue there”. One other project in the sample is known to also recruit students to work during the summer, but beyond this it is not known how many others have the facility to do so. Ultimately, this solution does require extra resource from the university, as even if the students do so on a

volunteering basis it would still require supervision and mentoring from the staff member during the summer months. This ties into another major problem with innocence projects in the UK, which is the lack of resource.

The lack of resource available for innocence projects in the UK was raised by a number of participants and seen as a significant hindrance to their effectiveness. In particular, the lack of staff allowance provided for individuals to manage the project. As explained, a number of individuals who run innocence projects in the UK may be pro bono directors of all the schemes ran at the university, or they may be full time lecturers. Participant 2 is the director of the pro bono schemes at her university, and explained the difficulties with trying to manage an innocence project in this role: “one of the reasons why innocence projects in this country can’t work is because you need someone with an overview of the case, and the only reason this project works is because [participant 1] is here, if he wasn’t here, this project would have closed four years ago, there’s no doubt about that, because in the beginning all I was doing was this and dabbling with another scheme, but my job is far wider than that now, there is no way that I could do casework, no way, so this project would close”. Participant 2 felt there was a considerable tension with managing an innocence project in such a broad role, and had recruited participant 1 to work almost full time running the project.

Participant 1 echoed her views on this: “it does need resources like everything else you know... you don’t necessarily need me but you need somebody in my role who can concentrate on it. I mean it’s impossible that a lot of its run by somebody like [participant 2] or lecturers”. Participant 14 was also in the same position as participant 2, and found it extremely challenging; she had also recruited another individual for the daily management of the project: “I did [run it] initially, and that was a particular problem because I was being pulled in all directions...and I had a heavy teaching workload. I also set up the free legal clinic at the same time, which now has 80 students on it, so I didn’t appreciate how much work would be involved and I was finding it very difficult to monitor all the cases we were dealing with”. She explained that she felt unable to continue running the project without getting in another person to help: “I went through a period of thinking god we’re not going to get anywhere with this because I just I can’t, we need a full time person...so when

[participant 13] got involved it became much easier". However, to employ a full or part time person requires significant extra resourcing from the university, and with universities now often running numerous schemes this funding can be difficult to source. These were the only two projects in the sample that had provision for a full or part time person to run the project. It is not known if there are any other projects in the UK that have this.

Problems with resourcing and staff allowance were also raised by other participants, none of which had provision for a full or part time member of staff to run the project. Participant 16 had recently decided to close the innocence project at her university, and considered that the need for resources was an important lesson for her in engaging in clinical work in the future: "I wasn't getting paid for doing this work, I had no allowance in terms of stints and other teaching responsibilities, so it was done purely because I was interested in this work and I believed in it. And that gets you so far, but when you're running meetings on Wednesday nights between 6 and 8 o'clock and you haven't had dinner, and you've been teaching all day, and you're teaching all the next day, it's quite exhausting, and frustrating, because I knew that there were ways to develop it that weren't within my reach because there's only one of me. So definitely big lessons around resourcing and if you're going to do this you absolutely need to kind of commit to it and buy in so that's probably been my key lesson".

This was also considered one of the most significant problems by participant 9, who is the director of a number of pro bono schemes at the university: "I think the biggest limitation is resources, lack of staff time to run projects... the constant demand from, you can't get researchers to engage in it because researchers have you know, REF requirements that they've got to produce... teaching colleagues then don't have enough time to engage in it, so the limitation is really staff resources". The issue of pressure on staff with a research contract was also raised by participant 5; she had left her role at the University where she was running the project and remembers the lack of allowance to manage the project was challenging for her: "because all the other members of staff were like well what workload allowance do you get for it, and of course I didn't really, and does it add to your kudos as a lecturer, no. I mean I got told a few times I'm wasting my time on it because it doesn't lead to publications, there's no REF impact and all these things". It is suggested by

some participants therefore that the lack of staff allowance and resources put into running an innocence project at a university has inevitably limited the potential success of projects in the UK. The other ramifications of this are that, since the collapse of INUK, the majority of projects in the UK do not meet the eligibility requirements to join the international Innocence Network, which requires projects to have provision for a staff member to work for twenty hours a week on the project. This has led to the majority of projects still functioning in the UK to have changed their name from “innocence project” to avoid trademark implications of using the innocence project name.

Four participants also raised the comparatively large amount of funding obtained by American innocence projects with that available for UK projects and considered this was a major contributing factor to their success in the US. Participant 10 considered: “they operate very well in the States...but they have funding, without funding it is so difficult...they attract charitable funding, you’ll never attract that in this country because these are prisoners, whereas in the States they use the death row card, so once somebody is unfairly on death row people will give money, but they won’t to just ordinary prisoners because people think they’ve committed the crime so”. Participant 2 also raised the same issue: “These things are very very expensive and universities don’t have any money. The model of universities in this country running innocence projects is completely different to the states, in Ohio, they get something like a million dollars a year from the Rosenthal foundation to run, and I know New York innocence project raises something like six million dollars a year to run, massively different, it’s huge. Every single innocence project in the states is funded properly as far as I know, and in this country none of them are, so that is the fundamental problem here”. Participant 5 in reflecting on the difficulties with innocence projects in the UK: “you’ve got to put this in context with the American system...a lot of its death row...they have massive funding from big American firms”. Participant 6 considered the UK projects would never have the impact that American projects could have: “I mean we’re never going to have the impact that the Americans do just because the Americans have so much have such a bigger problem than we do, and they’ve got big impact, it’s big money, there’s masses of people involved”.

Therefore, there was a view representative of some participants in the study that it was unlikely that the UK innocence movement could ever reach the success of the American movement.

Therefore, it is clear that participants did recognise various problems with the model of innocence projects in the UK. In particular, resource limitations and the lack of staff allowance to manage such projects. Whilst it is not possible to know from this data that such issues are behind the closures of innocence projects at other universities, it is clear that this is a significant problem.

#### *4.2. Systemic problems*

Beyond lack of funding, it was clear that some participants also felt there were systemic issues which prevented the innocence movement from having success. Participant 2 explained that when she first set up the project she was unaware of the “gargantuan hurdles” in the system which must be overcome to succeed in overturning a conviction; she considers that whilst innocence project work is valuable: “I didn’t realise that to do that, you’re fighting the system as well you’ve actually got to become a campaigner, rather than just academically coming up with the evidence through these cases, you’re not going to get anywhere, it’s a complete waste of time, without actually campaigning”. Similarly, participant 4 considered there was a need to work towards reform if innocence projects were going to be successful: “I think reality wise, we haven’t, at this project collectively we haven’t done a great deal, and maybe some of the things we’d need to do first, is maybe change some of the legal rules”. It is intended to discuss just two systemic problems which were raised by participants that are considered of importance. Firstly, issues with the CCRC; this is of significance to discuss because this was one of the major concerns Naughton had when setting up INUK, as explained above. Secondly, problems with post-conviction disclosure will be discussed, as this was the most prevalent issue which was raised by participants in the research.

As was explained above, one of the issues which Michael Naughton was particularly concerned about was the approach of the CCRC and the onerous appeal grounds. This is important to consider when assessing the official success of innocence

projects in the UK, as in the majority of cases<sup>20</sup> there will be three hurdles for a project to overcome: firstly, once an application has been lodged with the CCRC, it needs to be accepted for a full review; secondly, following the CCRC's full review, it needs to refer the case to the Court of Appeal; and then if the case gets to the Court of Appeal the Court must decide to overturn the conviction. This also takes a considerable amount of time. In the case from Cardiff University where the conviction was overturned, it was sent to the CCRC in 2010; the decision to refer it was not made until November 2013; and then the hearing date in the Court of Appeal was not until December 2014. This case was also largely based on a very narrow scientific point concerning evidential significance of gunshot residue particles so would not have required significant investigation by the CCRC. Therefore, it may be too soon to tell whether there is a serious failure of innocence projects at official level, as it is not known how many cases sent from projects are currently under review.

There were some participants who did raise concerns about the CCRC approach. Participant 4 considered that the CCRC were perhaps sometimes too resistant to referring cases: "they're there to correct injustices but they put so much higher burden on themselves, a higher burden than they really need to based on the law, before they will push a case to the Court of Appeal. And they know that if they do that, if they allow a case to go forward, it's going to cost the state money and I think that plays on them". Participant 1 also considered the CCRC were reluctant to refer cases: "I think, they in reality, work from the assumption that the person is guilty, it's only if you can absolutely firm something up legally, then they, will really be interested in it". This partly reflects Naughton's view that the CCRC are too concerned with legal technicalities as opposed to issues related to factual innocence. Similar to this, two participants also considered that the CCRC were potentially too cautious in deciding when to refer cases to the Court. Participant 8 considered: "there is an argument that the CCRC are a little bit too cautious and maybe a little bit too concerned about what the criminal court of appeal would think and trying to second guess what they were going to say". Participant 2 spoke about the CCRC's delay in

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<sup>20</sup> Projects may also occasionally get cases where the individual has never applied for leave to appeal; they would then not apply to the CCRC (which only accepts applicants who have already applied for this) but would have to apply for leave for an out of time appeal with the Court of Appeal.



investigating two ongoing cases where there was a body of opinion that the individuals were innocent and said: “that makes me think, that you’re never going to change that in-built, caution I suppose, and I think they could and should be challenging that if they want to pass the criticism back to the Court of Appeal, what’s stopping them doing it, I don’t know”. Therefore, some participants did consider there were problems with the CCRC. It is of note that in January 2015 there was a Justice Select Committee review of the CCRC’s remit and operation and they called on innocence project leaders for oral evidence, such as Michael Naughton, Dennis Eady and Carole McCartney. The recommendations made included suggestions that the CCRC should be less cautious in referring cases under the real possibility test, and that the Court of Appeal should be more open to looking at cases holistically where there may be doubts over the conviction’s safety<sup>21</sup>. Naughton made the point that these recommendations were in line with INUK’s original criticisms.

Therefore, this demonstrates some success of the innocence movement in the UK, although it still remains to be seen if these recommendations will be taken on board.

Secondly, the most significant problem raised by several participants related to the post-conviction disclosure laws in the UK. The issue of post-conviction disclosure went to the Supreme Court in 2014 in the case of *Nunn v. Chief Constable of Suffolk Constabulary*<sup>22</sup>; the impact of this decision will be briefly discussed below. However, a number of research interviews took place before this decision and participants highlighted this would be of significant importance to such bodies seeking to investigate miscarriages of justice. The Supreme Court was required to clarify the position on post-conviction disclosure as a point of general public importance; the position taken by criminal justice agencies was that there was no general right of post-conviction disclosure, and they would often refuse disclosure to solicitors or other individuals. They would rely on the CCRC to use their powers under s.17 Criminal Appeal Act 1995, which enables them to compel public bodies to disclose material. Participant 2

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<sup>21</sup> House of Commons Justice Committee ‘*Criminal Cases Review Commission*,’ Twelfth report of Session 2014-2015, in <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmjust/850/850.pdf>.

<sup>22</sup> Judgment R (Nunn) v. Chief Constable of Suffolk Constabulary, 2014, UKSC 37, par. 32.

explained that innocence projects are hindered from lack of funds to carry out testing of exhibits, but that also there is a huge problem with getting disclosure from criminal justice agencies post-conviction: “even if we identify that there was new DNA technology available or new ways of interpreting it, how could we first of all access the exhibits, because we have the case of Kevin Nunn, and that says that the time for disclosure was at the trial and not at the appeal, so forget it if you haven’t had disclosure”. A number of participants raised the lack of disclosure from criminal justice agencies as a huge stumbling block for innocence projects. Participant 10 explained that “a lot of the time, we were in every single case, blocked by the police, not releasing certain items of evidence that were really crucial for us to test, or do something with”. Similarly participant 4 said “I just think at the minute we don’t know where a lot of the forensics are in the aftermath of the forensic science service being closed down. We’ve had difficulties getting stuff from them as well, so you know, there’s problems, that’s the big thing, my big problem is there’s evidence which I know is there and in the possession of different criminal justice agencies and they won’t give it to us”. This interview was also prior to the Supreme Court decision of Nunn, and participant 4 expressed his hope that this case would make it easier to request disclosure from the police.

Two other participants who raised this considered that disclosure from the criminal justice agencies to solicitors or bodies such as innocence projects was crucial to the innocence movement in the UK. Participant 1 said “if there’s one thing through my experience of working on innocence projects that you could change...is this disclosure thing. I’ve even got to the point recently of saying well look you could abolish the CCRC if you just gave everybody the right to all the material and exhibits and papers they need, because then at least they’d have a chance of looking at it themselves”. Talking before the Supreme Court decision of Nunn, he lamented: “I mean there’s the Nunn case coming up, which is incredibly important in that respect, I mean if that’s lost you know, it’s the sort of thing that makes you think well is there any hope at all”. Similarly, participant 11 also considered it would be a significant improvement if innocence projects or other clinics could get access to materials: “I think I would certainly like to see innocence projects or clinics or whatever having some kind of power to request material, it would be really useful... I think

often we come up with a stumbling block where we can't access material we have no right to that material etcetera, so some kind of move in that direction would make things a lot easier for us, but obviously we're not privy to that". Therefore, it is evident from these participants that post-conviction disclosure rules were a thorn in the side to innocence project work which left them unable to get access to materials from criminal justice agencies to test. This makes the task of finding fresh evidence particularly difficult.

In the Supreme Court case of *Nunn v. Chief Constable of Suffolk Constabulary*<sup>23</sup>, Nunn's legal team argued there was a continuing common law duty of disclosure post-conviction to "afford the claimant such access as he seeks so that he can, if material emerges which supports him, challenge his conviction<sup>24</sup>". INUK, along with the Criminal Appeals Lawyers Association, made a third party joint intervention in the Supreme Court case of Nunn; they said a continuing duty of disclosure post-conviction should exist to ensure the defendant is provided with material that may undermine the prosecution case or assist the defence for the purpose of correcting miscarriages of justice<sup>25</sup>. They submitted the test should be whether there was material that could have been disclosed and tested at trial that may now assist in preparing the appeal<sup>26</sup>. So to what extent did the Supreme Court decision in Nunn make accessing materials easier for solicitors, innocence projects or other bodies seeking disclosure? In considering the general post-conviction disclosure rules the Court observed that we should view a defendant's position post-conviction as entirely different to one prior to conviction. Whilst the latter is presumed innocent until he is proved guilty, the former has been proved guilty and he is presumed guilty, unless and until it be demonstrated not necessarily that he is innocent, but that his conviction is unsafe<sup>27</sup>.

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<sup>23</sup> Judgment R (Nunn) v. Chief Constable of Suffolk Constabulary, cit., par. 32.

<sup>24</sup> Judgment R (Nunn) v. Chief Constable of Suffolk Constabulary, cit., par. 21.

<sup>25</sup> C. MCCARTNEY - N. SPEECHLESS, *The Supreme Court, post-conviction disclosure and 'fishing expeditions': R (Nunn) v Chief Constable of Suffolk Constabulary & Anor [2014] UKSC 37*, in *19(2) International Journal of Evidence & Proof*, 2015, 120, p. 124.

<sup>26</sup> *Ibid.*

<sup>27</sup> Judgment R (Nunn) v. Chief Constable of Suffolk Constabulary, cit., par. 32.

They accepted that after conviction, there is an important public interest in exposing any flaw in the conviction which renders it unsafe, but there is also a powerful public interest in finality of proceedings<sup>28</sup>. They concluded that post-conviction there is no general duty of disclosure, but the duty which does exist is found in paragraph 72 of the Attorney General's guidelines: "where, after the conclusion of proceedings, material comes to light that might cast doubt upon the safety of the conviction, the prosecutor must consider disclosure of such material<sup>29</sup>". The Court also extended this to include: "if there exists a real prospect that further enquiry may reveal something affecting the safety of the conviction, that enquiry ought to be made<sup>30</sup>". Furthermore, that if such a prospect exists then there ought to be cooperation from the agencies holding it to make it available, as it is in nobody's interests to resist such an enquiry until the CCRC compels it<sup>31</sup>.

They considered in the instances of disputed requests, there is the safety net of the CCRC. They should not only make enquiry when a reasonable prospect of the conviction being quashed is demonstrated; they should make an enquiry when there is a possibility that information obtained may reveal something affecting the conviction's safety<sup>32</sup>. However, this does not extend to speculative requests; a speculative request is one where there is uncertainty about whether any result will be obtained; or if a result is obtained it may be consistent with both guilt and innocence<sup>33</sup>. In Nunn's case, the Court did not think that disclosure of a sperm sample on victim's body for testing would necessarily meet the test; as even if the deposit did not belong to Nunn (who had had a vasectomy), it would not necessarily exclude him as the killer<sup>34</sup>. Arguably, this reasoning seems inconsistent with the Supreme Court's recognition at paragraph 32 that the appellant need not prove his innocence, but just that his conviction is unsafe. Testing of the sperm sample might provide Nunn's legal team with a potentially different avenue for

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<sup>28</sup> *Ibid.* par. 33.

<sup>29</sup> *Ibid.* par. 30.

<sup>30</sup> Judgment R (Nunn) v. Chief Constable of Suffolk Constabulary, cit., par. 42.

<sup>31</sup> *Ibid.* par. 41.

<sup>32</sup> *Ibid.* par. 39.

<sup>33</sup> Judgment R (Nunn) v. Chief Constable of Suffolk Constabulary, cit., par. 40.

<sup>34</sup> *Ibid.* par. 42.

investigation, which may ultimately undermine the safety of Nunn's conviction.

There have been mixed responses from commentators concerning the impact of this decision. Saunders, who represented Nunn, considered that aspects of the judgment were positive in that it suggested disclosure should be made to such bodies where the material *may* result in identifying evidence that could affect the safety of the conviction (a less onerous test)<sup>35</sup>. He also considered it reversed the position the CCRC had often taken in response to requests: that they would require applicants to show there was a real prospect of the conviction being quashed before they would seek disclosure<sup>36</sup>.

Furthermore, the Court also acknowledged the importance of the work of solicitors and other bodies in carrying out investigations, which reduces the burden on the CCRC. However, others remain concerned. McCartney and Speechless refer to the position in the US where it is recognised that post-conviction access to trial evidence and exhibits may be material to the convicted in proving their innocence<sup>37</sup>. They are concerned the judgment may be used to justify non-disclosure by authorities if, following consideration (as per the Attorney General guidelines), they decide to conclude that there is no real prospect of the material affecting the convictions safety<sup>38</sup>.

Furthermore, they remain concerned that reliance on the CCRC risks a continuation of the catch-22 situation many appellants find themselves in: where they need access to the materials to demonstrate that further testing is needed, as the CCRC will not countenance disclosure requests unless the applicant demonstrates that testing will support their claim of innocence<sup>39</sup>. Therefore, it remains to be seen how the authorities will respond to the judgment; or whether innocence projects in the UK will find it any easier to seek disclosure from criminal justice agencies. However, the decision of the Supreme Court not to uphold Nunn's request for disclosure does suggest that, if there

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<sup>35</sup> See, for summary, J. SAUNDERS, *A real prospect of DNA exonerations? Disclosure after Nunn*, in <http://www.bloomsburylawonline.com/commercial/real-prospect-dna-exonerations-disclosure-nunn/>.

<sup>36</sup> *Ibid.*

<sup>37</sup> C. MCCARTNEY - N. SPEECHLESS, *The Supreme Court, post-conviction disclosure and 'fishing expeditions': R (Nunn) v Chief Constable of Suffolk Constabulary & Anor [2014] UKSC 37*, cit., p.124.

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.* (n.37), p.125.

has been a step forward in post-conviction disclosure, it is a conservative one.

## **5. A view to the future**

As explained, the last year has been particularly turbulent for the innocence movement in the UK with the breakdown of INUK as a membership university organisation. It is too soon to reach any firm conclusions on what the future for this work may look like in the UK, but this was an issue which was explored with participants in the interviews. It is important to note that some of the interviews were carried out prior to the network's announcement that it was folding, whilst some were carried out following this. It will firstly be discussed how participants viewed the future for innocence work prior to this announcement, before moving on to consider the views of those participants who were interviewed following this announcement.

Participant 2 was spoken to in December 2013, prior to the INUK announcement. At this stage, this participant already had concerns about the future of the movement: "I think the university innocence project movement has peaked, and is now going downhill rapidly, and I don't think that will reverse". She explained that the innocence project model did not fit within the traditional remit of clinical legal education in the UK. This caused problems for innocence project casework such as those discussed above: the short university term times during which students can do casework; the burden on staff to manage the project and the lack of funding. She considered: "all those problems added together mean I think that innocence projects aren't going to exist in perhaps five years' time, they'll be well on their way out". She explains the increased pressure on UK universities to provide pro bono schemes has mounted in recent years: "we're all having to do real client work, whether we like it or not, the way that lawyers are trained is changing...so it's only ever going to be more pressure on universities to do more, more cheaply, more quickly, so that students have the same experience". She explained that although innocence projects were attractive to students: "the problems from the staff point of view, will mean that, whatever the will is behind it, it just isn't going to work, and you will get new staff giving it a try, but as soon as they're a year or two into it, they'll think, "Oh my god I

wish I hadn't done this," that's what I think will happen. I think it will bottom out, at a small number of people still doing it". It is known that there have been several projects shut down since their inception over the last decade, but the current figure for remaining projects is unknown. It is not possible to conclude whether projects shut down due to such problems, but it is clear from the above discussion that many participants in the study recognised there were several challenges involved in running an innocence project.

Similarly to participant 2, participant 6 was uncertain about the future of innocence project work even before the decision of Naughton to fold INUK. She had left her role at the university where she ran the innocence project but had handed supervision over to another member of staff. In reflecting on the future, she considered: "I did think the future was rosy, because there was so much interest in doing pro bono work. But I think now that universities have changed in that there's not enough time for staff to do things; there's not any money around to do things...so I think we'll struggle really". This participant raised very similar concerns to that of participant 2 about the lack of resource and time for staff to supervise such a project. She elaborated by considering the future for the project which she had left: "[university project] is under threat because of course I left and I mean I've handed it over to somebody but she's leaving next year so who's going to do it then? Nobody else on the staff was interested, and even then they were trying to replace me when I'd resigned, they put in a job spec to run an innocence project and nobody wanted to, not one of the applicants said that they would do that, so it's not like there's people around who have the skills and experience...and if you're expecting someone to just turn up with the enthusiasm you've got to make sure they've got the time and the money to do that, new lecturers don't, I mean no one really does".

Participant 6 was particularly concerned about the potential of the innocence movement failing in the current climate: "Because I think innocence projects are dying out and just at a time when we're going to start getting more and more miscarriages of justice, because of legal aid, because of forensic science... and no lawyers anymore with any time or any money...if anything innocence projects should be booming".

This demonstrates that there was a perception amongst some individuals that the innocence movement was declining in the

UK even prior to the decision of Naughton to fold INUK as a membership organisation.

However, what does the collapse of INUK mean for the future of innocence work in the UK? There were five participants from four innocence projects who were spoken to following the collapse of INUK. There were mixed views about the impact this would have on university miscarriage of justice work. Participant 16 explained that just prior to the collapse of INUK they had been in the process of trying to get another case from the network, but found they weren't getting a response: "eventually we weren't getting a response, and then I think it was obvious that things were afoot within the network and I took the decision then personally that it was the right time to bow out, we'd closed the one case we had and asked for the network permissions for that...because that really had reached the end of the line, and so it just felt like this is the right time now to stop". Therefore, this participant had made the decision to close the project in light of this. In reflecting on the potential impact of the loss of INUK she felt that it could be detrimental to innocence work: "I think now that the network has disbanded, I think it's going to be really difficult for people, we lost something in the network being disbanded, and I think Bristol loses actually as well, you know I think we're all losers. I'm sure Bristol will continue to do some good work, but, there's a strength in a network, that's going to be lost". Despite the closure of the project she did intend to set up a new clinical program for students, but she was not sure whether it would be in the same area. Participant 18, who was also interviewed following the collapse of INUK was also concerned about what this might mean for the future, particularly in relation to their own project which she felt would struggle without external guidance and support: "as someone who's really new to it, I would feel happy to be part of a network where there were protocols and you were working to certain kind of standard approaches because otherwise, one you're reinventing the wheel so it takes longer, but also you know it's safer if there's a clear set of protocols and everybody kind of knows this is how you should approach things". This project had ceased operation that academic year because of the network collapse, largely because they did not have a case to work on, but there was an intention to continue once they found their way forward. Whilst participant 14, from a different project was positive about the future for the work following the collapse of INUK; she felt they would



become more successful independently: “so I do feel that we are becoming more successful and I think that now the pressure of not being stuck in the INUK knot...it’ll be better, I’m quite positive about it”. There was a perception from this project that they had faced difficulties with INUK and had already made the decision to leave the network prior to Naughton’s announcement.

Despite a number of problems with the movement, many did think that innocence projects were beneficial and were needed in the current climate with the huge legal aid funding cuts. Participant 3 considered this, and felt that provided projects were working properly they did meet a need in the system: “I think the innocence projects do, if they are working properly do do a good job for the clients, because nobody else would do this, especially in the legal aid situation now, no chance of anybody reading 300 files of a case 15 years ago of a very unpleasant killing, no chance, so for, the students, students are the only people that would put in the time, so they do a good job”. Participant 20 had recently joined the university and taken over supervising the innocence project and had previously been practicing as a solicitor in criminal defence; she agreed that there was a need for innocence projects in the current climate: “I think they are more crucial now than probably ever, there probably is scope to use them in different ways in the way that the legal aid reforms are coming in, whether or not I would agree with that and expanding the scope or whatever I don’t know because obviously I’ve come from a practice background and the legal aid reforms are affecting all my colleagues you know”. Similarly, participant 13 who had a wealth of experience working on miscarriages of justice considered students provide a resource that is absent elsewhere in the criminal justice system: “there’s the resources that students are themselves, the work they do, some of that can be very detailed and quite complex at times and they can spend a lot of hours on it, and I don’t think that anywhere in the criminal justice system that kind of work is going to be done, only students would find the time to do that, so that’s a good and important resource for us”. None of the individuals interviewed spoke of their clients being unhappy with their work, and some explained their clients were often grateful to have them working on their case and were pleased with their work. So it is arguable the innocence movement in the UK is filling a gap in the criminal justice system.

There were a number of participants who spoke of a potential future partnership with the Centre for Criminal Appeals (hereafter CCA)<sup>40</sup>. This is a not for profit organisation set up by practitioners in this area which will work on cases of miscarriages of justice. There were two participants who ran innocence projects (one of which has since changed its name) and two criminal appeal units that spoke of plans that they may partner with the CCA in carrying out casework. Participant 2 spoke in December 2013, prior to the folding of INUK and in the fledgling period for CCA, but she saw the potential for university partnership with this organisation at this stage: “but I think a partnership between a group of universities and these organisations is probably the way things will head in the next five to ten years I would think”. Participant 11, speaking several months later but before the folding of INUK had recently made the decision to leave the network, and explained that he was positive about the future in light of potential collaboration with the Centre: “I think the INUK model itself is unsustainable, so which I realised last year, and that’s why I made some moves to try and broaden what we do in terms of the Centre for Criminal Appeals and linking up with other institutions...then we have to say well do we actually keep on running the innocence project or do we change, do we just stop doing it, I’m quite happy that my new involvement with the Centre for Criminal Appeals will help source some work”. There were also two interviewees who had recently set up university clinics focusing on criminal appeals (which were not established as ‘innocence projects’) who spoke about the potential partnership with the Centre: this was participant 17 and participant 12. Participant 12 explained how it would work: “if we do join up with the Centre for Criminal Appeals...(practitioner from CCA) had in mind a project in which we just work on the one case, so that stops the issue of turnover of students, new students coming in, trying to get up to speed with the case. The idea is from September they’d already have a case that’s already going somewhere, the students will come in September, get up to speed with the case, do the work that they need to do with the deadline of getting it ready for submission by the end of the academic year”. This model does appear to be one that could improve the current approach of innocence projects (or criminal appeal units) because this would

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<sup>40</sup> <http://www.criminalappeals.org.uk/>.

avoid many of the problems outlined above, such as where cases may be inactive outside of student term time. It will also increase productivity as the students will be working towards drafting an application that academic year for it to be sent back to the CCA.

A practitioner from the CCA was also spoken to during the research in order to explore what the centre was aiming to do; what types of cases it would be working on and how it would operate. Also, of particular interest was how they intended to collaborate with university innocence projects or criminal appeal units. She explained how they had a grant from the legal education foundation, and that there were five or six universities interested in working with them, she explained the collaboration would be mutually beneficial: “the main thing that we can bring to universities is specialist legal knowledge and the main thing that universities can bring to us is manpower”. She explained the model in similar terms to participant 12, in that they would hand the students the case at a relatively early stage and get them to organise the key documents, produce a chronology, a witness list, a case theory and investigation plan, and they would work towards drafting a CCRC application.

The case would then go back to the Centre who would decide whether to take on the case and work towards that or hand it over to a lawyer. She explained how she felt this would be productive for universities working in this area, as the centre could bring specialist legal knowledge to help guide their investigation. She expressed some concerns over the current model of university involvement: “one of the things that I worry about with innocence projects is I think that cases tend to get mired and they get stuck in the terms and the holidays and the students, and some university professors not having perhaps the requisite knowledge and being very well meaning but it’s quite an unusual area and so, I would like to try and address that, so that’s how I sort of see the two working together”. She also reflects on the lack of resource put into projects by their institutions: “it’s amazing how hard it is when some law schools who think the only investment they need to make in their clinical program is just to have a professor who does it. That’s just so insufficient. Particularly if that professor has 3-5 programs, it’s just not possible. . . And I sort of wish that not all universities would feel like they have to have an innocence project, I sort of wish some of them would be like well we’re either going to invest in it and that’s going to cost between 10-15k a year”. This mirrors a number of the concerns

that were raised by the innocence project leaders as discussed above.

However, she does consider that university clinics could play an important role in this area: “the reason that they are necessary is that there aren’t enough lawyers in the system who are willing to take these cases...and the big advantage that students have over practitioners is that they’re able to spend time in the field with huge numbers of documents, that sort of work is very well suited to the student environment”. Therefore, it appears that this collaboration could be extremely positive for those universities involved and would ensure a more productive and effective role for universities, whilst mitigating a number of the problems which have proved challenging to the movement so far. However, there are only five or six universities that will potentially be involved in this so, for other university clinics, it remains to be seen how they will evolve in light of the collapse of INUK and whether they will survive.

Therefore, all that is clear at this stage is that the movement is currently in disarray. It is not known how many universities are still involved in miscarriage of justice work; or how many former innocence projects are now operating under a different name; or even how many projects will continue in their current form; and it is too soon to tell how many will survive the folding of INUK.

There is also concern amongst individuals working in this area that there is currently no database of prisoner requests which are made to universities. There is an indication that one may be set up, but this will be a difficult task particularly with confidentiality issues with prisoner requests. One reason for wanting this database is the concern that one prisoner may write to several projects requesting assistance; although it is unlikely in reality that two projects could work on a case simultaneously given that they would have to be sent the case papers. In relation to this, it is noteworthy that even whilst INUK was functioning there were universities who either never joined the network, or had withdrawn from it and had been operating independently; so this potential problem would not be a completely new one, but is not known to have manifested as of yet. There are also other universities with clinical programs in criminal appeals who were never termed “innocence projects” and who continue to operate. For example, there is the Student Law Office at Northumbria University, which is managed by practitioners at the university

and has a student firm looking at criminal appeals. This unit successfully overturned the conviction of Alex Allan in 2001 and obtained compensation for his wrongful conviction. Therefore, whilst the innocence movement may currently seem under significant threat, it is likely there will remain functioning university clinics with a focus on miscarriage of justice work.

## **6. Conclusion**

So how does the future look for innocence projects at this stage? All that is clear is that there is considerable uncertainty. There are not many “innocence projects” left in the UK by name. Many universities have changed the name from “innocence project” to avoid trademark implications with using the innocence project name because they are ineligible to join the international Innocence Network. There is no record of how many universities are continuing in this work and under what name. However, it appears that some see the future as bright for miscarriage of justice work, particularly amongst projects that are joining up with the Centre for Criminal Appeals. There is the potential for this model to overcome some of the previous problems which university projects have faced. However, in terms of an effective national movement, it is clear that the UK has lost an important aspect of this with the closure of INUK. It seems unlikely that there is scope for another network being established to fulfil this role, as the burden of this is evidenced from Naughton’s experiences running INUK. Despite a seemingly uncertain future, it is worth noting that new clinical ventures focusing on miscarriages of justice were set up this academic year of 2014-2015, albeit in a different form, and there does appear to be an appetite to continue with such work from a number of universities.