

UK: Conservative government backs efforts to overturn parole of rapist John Worboys

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Following an appeal to the UK High Court by two female victims of John Worboys, who was convicted in 2009 of rape and other offences, his scheduled release from prison has been put on hold.

On January 4, the Parole Board announced that Worboys would be released, under strict monitoring, on a licence period of at least 10 years.

In March 2009, Worboys was found guilty at Croydon Crown Court of one count of rape, five sexual assaults, one attempted assault and 12 drugging charges—against 12 victims. He was a black cab driver, with his victims being women he picked up as passengers from July 2007 to February 2008. Police believe he may be linked to around 100 attacks on women.

Worboys received an indeterminate sentence for the protection of the public (IPP), requiring he serve a minimum of eight years in prison. This meant he could be kept in prison as for as long as he was deemed to remain a danger to the public.

At a High Court hearing last Friday, Mr. Justice Supperstone granted an application from the women's lawyers delaying Worboys' release. The judge allowed an interim stay on his release until a further hearing is held between February 6 and 8 to decide whether the legal challenge should be allowed to go ahead. One of the women, "NBV," gave evidence at Worboys' trial, while the other, "DSD," who was drugged and sexually assaulted by Worboys, did not have her claims listed as part of Worboys' indictment.

The women are demanding a full judicial review of the Parole Board's decision and the publication of the 360-page dossier that led to it recommending that he was no longer a risk to the public.

Their calls were supported by Julia Salasky, a prominent supporter of the #MeToo campaign, described by *City AM* as "a high-flying lawyer turned entrepreneur." In an *Independent* article January 22, headlined, "The #MeToo campaign has reached the tipping point, and now we need to focus on the power of the law," Salasky points out that a

crowdfunding campaign "allows people to come together to fund action to stop his [Worboys] release... but it could also change the rules, which currently prevent the reasons behind the parole board's decision from being published. This is important because if the lawyers can get access to these reasons they can explore grounds for challenging the decision."

The women were granted the application one day after London Mayor Sadiq Khan applied to the court for a judicial review into the Parole Board's decision to release Worboys.

The victims of Worboys have every right to be concerned about his release. However, the moves to challenge the Parole Board's January 4 decision have implications for legal norms and for due process. The dangers involved in setting legal precedent cannot be ignored due to the horrific nature of Worboys' crimes.

Someone sentenced to IPP can only be released by the Parole Board after an assessment of the risk they may pose to the public and their victims. The Board has to decide whether any risk can be managed by criminal justice authorities—such as the police or probation officers—in the community. If the answer to this question is in the negative, then there is no recommendation for release.

According to statements by some of the victims demanding Worboys remain under lock and key, they thought that he would be in jail for life, that victims were not informed of the decision to release him, that there were more offences committed than he was convicted for, that the parole process should be "opened up", that the sentence was too lenient and that he doesn't admit to his crimes. Richard Scorer, of law firm Slater and Gordon, said that Worboys "may have fooled the Parole Board into believing he is no longer a threat."

Conservative Minister of Justice David Gauke responded that the government would do all possible to ensure that Worboys remained in prison. He commissioned legal advice last week on the plausibility and prospect of the success of a judicial review. A few days later Gauke told Parliament that the legal advice he received was that it would not be

appropriate to proceed to a review of the Parole Board's decision.

That Gauke was forced to retreat can only mean that the Parole Board's decision was conducted according to the correct statutes and procedures. Worboys has already served nearly 10 years in custody, including a period on remand—more than the minimum of 8 years to which he was sentenced. In deciding that he can be released, Worboys would have had to satisfy the generally risk adverse Parole Board that he can be managed in the community.

In challenging the government's move to consider a review of their decision, Parole Board Chair, Professor Nick Hardwick, said that almost 400 pages of evidence were considered by the panel that decided to release him. Worboys was "questioned in detail" by three officials, so that "The Parole Board itself has acted in accordance with the law and the evidence."

He argued, "We should be open to legal challenge, but it is right we resist political interference in our decisions. Like any court, the Parole Board members must make independent decisions in accordance with the law and on the basis of evidence. It would be a bad day for us all if people's rightful abhorrence of Worboys crimes or even justified concern about a Parole Board decision allowed these basic principles of justice to be overturned."

Hardwick noted that the Parole Board does not have the power to reassess sentences, and that it must make decisions based on the risk a prisoner presents, how they have changed and the plans to monitor and rehabilitate them after release.

Challenging the Parole Board's decision calls into question the sentencing, imprisonment, release and rehabilitation procedures involved in the case. It can thereby undermine processes that apply to tens of thousands of released prisoners—or those who are imprisoned and still subject to IPPs.

Licence conditions for Worboys' release such as limiting where he can go, who he can contact, where he can live, what work he can do, what other interventions he may have to do, and reporting to probation and the police—among other restrictions such as polygraph testing, a curfew, and electronic monitoring—will be used to control him in the community, all of which he may be subject to for life. Breach of any of these conditions would result in Worboys being sent back to a high security prison. Such measures are employed daily in relation to violent and sexual offenders released from prisons. According to Hardwick, fewer than one percent of those released by the Parole Board commit a serious further offence.

IPPs were first established under the Blair Labour government in 2003 for cases of criminals perceived to be a risk to the public, who could not be punished with a life

sentence. One would conclude from the outcry over Worboys' release that they have enabled the early release of prisoners, but the opposite is the case. IPPs were abolished under the 2010 Conservative/Liberal Democrat coalition, after the European Court of Human Rights ruled that they violated human rights. It found that thousands of prisoners ended up remaining in prison well beyond their minimum tariffs, as they awaited a release date.

Of the arguments marshalled by Worboys' victims, the most understandably emotive is that he is understood not to have been prosecuted for many other crimes - with the police acknowledging that he may have committed around 100 similar crimes, including rape.

The crowdfunding appeal brought by "NBV" and "DSD" notes, "By the time John Worboys was eventually apprehended and the case went to trial 83 cases had been linked. DSD was one of his earliest known victims. He drugged and sexually assaulted her in early 2003. NBV was drugged and sexually assaulted by him in 2007, his 75th known victim. They both came forward to the police but were failed terribly by hopeless investigations leaving Worboys free to continue his campaign of attack."

Following this, the two brought a claim "against the police relying on the Human Rights Act" and "have established a ground-breaking enforceable legal duty on the police to conduct an effective investigation into allegations [sic] serious sexual offending."

In 2010, the Independent Police Complaints Commission ruled that Worboys could only remain free to carry on attacking his victims because Metropolitan Police officers made serious mistakes and failed to take victims seriously. As a result of their findings, five police officers were disciplined.

However, it remains the case that if Worboys committed many crimes without charges being brought against him, then the issue involved is catastrophic police failings, not the conditions of his release. Police failings cannot be remedied by overturning due process. Worboys has not been charged with any of the other alleged rapes and assaults and tried in a court of law. He was tried for the crimes that the court heard evidence of and his sentence was deemed commensurate with the crimes.



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