This submission to Strasbourg was given case number 4896/06.

It was struck out at the admissibility stage on the grounds that domestic remedies had not been exhausted.

If anyone has any idea what they please let us know....The European Court of Human Rights is a Public Court so here is the submission;

Section II Statement of the facts

1. This is a submission to the European Court of Human Rights after all domestic remedies have been exhausted. The House of Lords refused to hear the matter in final decision dated July 1st 2005 against the decision of Lord Justice Laws refusing the right to Appeal the decision of Mrs. Justice Hallet and LJ Keen in refusing leave to apply for judicial review on October 5th 2004 in case number C0/2004/ 2368.

2. The matter before the Court was a challenge on the decision of the Administrative Court and the Crown Court on Appeal refusing the Applicant 30 witnesses as part of the defence for the alleged criminal damage of painting a door purple.

3. On Wednesday February 5th 2003 the Applicant and two others; Father Christmas and Sarah Ashford painted the door of the Children and Family Court Advisory Service (CAFCASS) office in Ipswich, the Colour purple in a simple act to draw public attention to the wrongdoing in the UK Family Courts including CAFCASS and the judiciary.

4. It was an act designed to draw publicity to the widespread, systematic and persistent abuses of human rights in closed Courts where fathers and their children are routinely humiliated in private law proceedings and families destroyed in public law proceedings along with the palpable failure of CAFCASS and closed Courts.

5. The Children and Family Courts Advisory Service are little trained in their task, regularly provide biased, inaccurate and distorted reports little respecting obligations under Articles 3, 6 and 8 of the European Convention of Human Rights and national laws such as the Perjury Act 1911.

6. CAFCASS are having their reports rubber stamped by the Judiciary who behind closed doors are ignoring their proper role to administer Justice by mercy and right, to act independently and impartially and have for years ignored the voluminous complaints and protests at the destruction of families.

7. There were a number of supporters present making a loud noise to attract attention of passers-by and a megaphone used to explain to the Public what the protest was about.

8. The media had been informed beforehand as had the Lord Chancellors department. Despite knowing of the protest at Bury St. Edmund's offices they stated they had moved the office to Ipswich and made no complaint about the protest.

9. It was a noisy but peaceful protest and no charges or allegations of harassment or intimidation were made.

10. Before the painting could be properly finished we were arrested by the Police on suspicion of criminal damage and later charged and released on Police bail.

11. We were brought before the Magistrates Court on February 11th 2005 and pleaded not guilty to the offence.

12. The Applicant had no legal representation. His experience to date of lawyers was such that he did not trust them.

13. We were released on bail, but were never asked to consider if we wanted trial by jury or to apply for one.

14. We had no knowledge of the criminal procedure and were not informed of our rights. We did not consider ourselves as criminals as we were expressing our human rights, acting peacefully and simply seeking publicity. The photo of the arrest shows a very smiling Police.

15. We were released on bail to attend trial on 18th June 2003.

16. The Applicant subsequently made an Application for Jury trial to the Court. This was refused by a Court Official.

17. The trial on 18th June 2003 had to be adjourned because the Crown Prosecutor personally knew the Judge.

18. The judge was requested to have the hearing recorded. She refused. Hearings in Magistrates Courts are not recorded unlike County and Crown courts. Any recording otherwise is illegal.

19. Arguments presented to the Court on Jury trial, Article 10 of the European Convention of Human Rights, our civil rights and to protect our rights under article 6 European Convention of Human Rights were given no weight. The Judge simply stated the decision had already been made and could not be re-opened.

20. The Judge adjourned the hearing and set it down for a final hearing for three days from 3rd to 5th September 2003. The judge agreed to put her reasons for refusing Jury trial in writing. We were again released on bail until said date.

21. An Application was made by the Applicant alone to the Administrative Court for a review of the decision of the Judge in refusing jury trial on 4/8/03. A selection of witness statements was provided in the bundle and Application made for them to be heard as to the necessity of

trial by country and our peers and to secure our rights to a fair hearing.

22. In 1794 the First Chief justice of the US Supreme Court John Jay stated '**The jury has the right to judge both the law as well as the fact in controversy.**'

23. In Trial by Jury Lysander Spooner writes 'The **trial by jury...is a trial by the Country-that is, by the people-as distinguished from a trial by the Government**.' and '**It is indispensable that the people, or ''the Country,'' judge of and determine their own liberties against the Government; instead of the Government's judging of and determining its own powers over the people**.'

24. The other two defendants were named as interested parties. The Applicant did not have confidence that he would have a fair hearing after experiencing biased judges and others in the Closed Family Courts.

25. The Director of legal Services a Mr. C F Bowler, a Court official and not a judge refused my Application to postpone the final hearing pending the hearing for Judicial review in a letter dated 29th August 2003.

26. The Crown prosecution Service agreed the matter could only be decided by a judge and forwarded the Application to the Magistrates Court.

27. The trial had been scheduled for September 3rd to 5th 2003 for 3 days.

28. The Judicial review in the Administrative Court had not been heard although the Application had been made for an urgent hearing prior to the trial.

29. The Applicant attended the trial as ordered as he was on bail. He requested again orally an adjournment as the administrative decision of whether there should be a jury trial was outstanding. The judge refused on the grounds that the Applicant could ask for a re-hearing should he be given permission for a jury trial and the trial had been adjourned once already, yet this was not the fault of the defendants.

30. The Applicant could not take part in an unfair hearing. He was unprepared for a final hearing, had no paperwork with him and the Judicial review had not been heard. He left the Courtroom after the Judge refused to adjourn and sat in the waiting room.

31. In the afternoon of the 3rd and on the 4th the Applicant sat in the Public gallery watching the other two give their defences. He took no part in the hearing at all.

32. Of the co-accused Sarah Ashford, a victim as a child and adult of Parental Alienation Syndrome, a courageous woman, wished to defend herself further but could not do so as she has insufficient income, time, energy and ability to travel having suffered cerebral palsy throughout her life and having a daughter to care for on State benefits. However she should be regarded as an interested party. Her fine from the Court was paid by Father Christmas.

33. She had a lawyer on legal aid who gave a defence under article 10 of the Human Rights Act 1998. The judge gave no credence to her rights under article 10. The lawyer agreed to Appeal, then refused to help her.

34. The Applicant was found guilty without presenting his defence as he had preserved his position as the Judicial review was awaited.

35. Application was made on 18th September for a three day hearing and witnesses to be heard for the judicial review should permission be given.

36. The judicial review took place on November 7th 2003.

37. The hearing was heard by Mr. Justice Royce and Lord Justice Kennedy. It was another example of judicial wrong-doing. At the beginning of the hearing the Applicant asked the judges if they had the full bundle and if they had the skeleton argument. They both agreed they did, yet the Applicant had not served the skeleton argument on the Court as the Court office had advised him not to send it by post due to a postal strike.

38. The Applicant's presentation to the Court took some 40 minutes. The judges did not ask one single relevant question, the judgement was pre-prepared and a sham. No statute law, case law or human rights law was addressed. The decision of the Lord Justices was clearly a sham and justice was again diverted.

39. The Applicant made an Application to ECtHR for this to be addressed but it was refused as all domestic remedies had not been exhausted.

40. The Applicant then Appealed the decision of the Magistrates Court to find him guilty of criminal damage as he had taken no part in the final hearing and had not given his defence to an independent and impartial tribunal as is his fundamental right in law.

41. The Applicant had thirty witnesses to present in respect of his defence and after two Directions hearings, the matter was set for a four-day trial.

42. There were two Direction's hearings on December 5th 2003 and February 6th 2004. No argument was presented against the attendance of the witnesses.

43. The Court had requested copies of the Statements on December 5th 2003 and the Court and the Crown had full knowledge of the contents of the witness statements well prior to the Direction's hearing on February 6th 2004, in fact prior to 15th January 2004.

44. The Judge set the case down for four days with two of the witnesses to be heard on the first day. The CPS did not object and agreed. Direction's hearings were the appropriate place to examine any argument against the witnesses attendance to save Court costs and time as well as that of the witnesses.

45. A large amount of evidential material was provided as evidence of the wrong-doing of the State bodies and Judicial Authorities amounting to some 1800 pages for the Crown Prosecution Service and each of the three Appeal Judges.

46. On the first day of the hearing it was noted that the Court had booked four cases to be heard, and even a case for the afternoon session. Clearly the Court had not expected to have a four day hearing as they had stated in writing and in the transcript of the hearing, the Judge stated on page 4 para 18 'it is listed for four days.' Yet this was untrue since there were other hearings already booked.

47. The hearing never went beyond house keeping points. The Appeal was abandoned after the witnesses which had been agreed were refused to give evidence in the Applicant's defence.

48. It is quite clear that the Judge's notes show the hearing had been set for the four days and the witnesses had been agreed. The Judge would not have set the hearing for four days without full knowledge of the witnesses who would be giving evidence and as both the Judge and the Crown had been fully aware.

49. The Applicant had been asked on February 6th 2004 to arrange for the thirty witnesses to

appear over the four days according to their time constraints and as the judge had clearly stated would be the Applicant's responsibility.

50. During housekeeping points Judge Goodin along with two Magistrates asked how many witnesses there would be which was strange given that the judge's notes show the Court was aware there would be thirty witnesses.

51. This was to say the least surprising given that the Applicant had been asked to arrange for the witnesses to attend, there had been no argument given against them and the Court and Crown Prosecution Service had the witness statements from prior to the directions hearing on February 6th 2004.

52. The Applicant was ambushed on the day. The State has the duty to inform the Applicant in advance should they wish to raise concerns regarding the witnesses since they could have done so on February 6th 2004 but chose not to. This wasted Court costs and time and that of the witnesses and the Applicant.

53. The Court was made fully aware in housekeeping points that the painting of the door was only an act to draw attention to the Public of what is going on (page 7 of transcript of the hearing para 26/27), a human rights defence (page 6 para 27-29), the Applicant's belief that it was not criminal damage (page 8 para 3).

54. Counsel for the State Miss Hayes, only argued the witnesses were irrelevant on trivial grounds and without knowing my defence. She also tried to argue that the judge has to take into account the interests of the prosecution as well as the defence (page 10 of the transcript), that family proceedings should not referred to in Public (page 11) and did not muster an argument against sections 6 and 7 of the Human rights Act 1998 (page11).

55. The Applicant disabused the Judge of the arguments (page 12 para 24 to page 13 para 10), yet the Judge failed to take into account the arguments under Human Rights, the fact that it was not criminal damage and that his witnesses were essential to his defence and to his Mens Rea. The Applicant was not under a duty or obligation to disclose in housekeeping points his full defence being a litigant-in-person against the full weight of the State.

56. The Applicant withdrew during housekeeping points as he could not participate in an unfair hearing and had no wish to disclose the full defence to the Crown prosecution Service in advance. It is the role of the State to prove my guilt beyond all doubt and for the Applicant to provide his defence in the Court setting during the hearing.

57. The decision of refusing the thirty witnesses was then taken to the Administrative Court for review.

58. The judicial review was to examine whether the Crown Court on Appeal had the legitimate jurisdiction to deny the fundament right of an accused to have his witness heard in his defence.

59. No objections were registered by the CPS and/ or the judge at the Directions hearing and indeed the court had made all arrangements for the witnesses to be heard, including two on the first day.

60. Criminal law is an adversarial process. There is no statutory obligation upon a litigant-in-person to disclose their defence or provide a full or any skeleton argument in advance.

61. The defence rests around the fact that in painting the door purple and not daubing the door as the media and the Trade Union for CAFCASS, the National Association of Probation

Officers (NAPO) publicly stated. It can be argued that **no criminal damage was ever caused.**

In determination of the validity of the charge of a criminal act the witnesses are important for the following reasons:

62. The witnesses were/ are intended to testify to the fact that the action of painting the door was as a result of, and at the request of, all these fathers, grandparents and young adults and the need to draw public attention to the daily injustices and violations of human rights that occur in the closed family courts; resulting in the deprivation of family life, financial ruin and the care and attention of loving families.

63. It was for these reasons that the Applicant and others undertook the task. The painting of the door purple was an instance of civil protest, a demonstration of expression of free speech that freedom should be granted to those whose only desire is to maintain a loving relationship with their children, parents and grandparents.

64. **It remains essential for the court to establish the motive and reasons for the painting of the door purple before the court can proceed in its determination of whether the act was criminal as charged**. This is simply because others and the Applicant may have been under threat, or undue pressure or for many other reasons coerced against our will into performance of the said criminal act. Only by listening to the witnesses can the truth be revealed.

65. On the other hand the witnesses might even deny their involvement in this action and hold the Applicant solely responsible. All are essential factors that the Court needs to take into account in its determination.

66. It is imperative that the witnesses are heard in order to justify the mens rea. Denial of this, is denial of a fair hearing – the right as set out in the European Convention on Human rights and article 6 HRA 1998.

67. Only after this is achieved, can the court proceed to determine whether under the circumstances the painting of the door is a criminal act as charged or a form of freedom of expression when there is no other way of raising these issues to the public attention.

68. The applicant contends that the act was not criminal for the following reasons:

a) The painting did not reduce the value of the door. It had been improved compared to the previous state it was in.

b) There was no physical damage to the property.

c) It continued to function as a door. Neither is there any Authority or case law to determine that painting Government doors without causing any inconvenience is a criminal act.

d) In considering the dilapidated state of the door at the outset, and when CAFCASS are complaining of insufficient funds, this would add to its value. (They currently are already over 4 million pounds in debt for this financial year)

e) Crown Gloss Royal paint and brand new paintbrushes were specifically bought for this renovation.

f) The door was carefully painted but we were only prevented from finishing the job because we were arrested.

g) Purple was chosen as it is the International colour of equality and the door next door belonging to the National Probation service was also purple.

h) Throughout the entire painting episode great care was taken and with professionalism. It was most unfortunate we were not allowed to complete the work in such an action not only wasting our money and time but also public money and Police time in arresting us.

i) When a road in Turkey was painted red in protest at the Iraq invasion, the Turkish CPS refused to prosecute under article 10 of the ECHR convention. This implies that there is more respect for Human Rights in Turkey than in the UK.

69. For the Crown Court to go on record, in the decision of refusing the witnesses, and **to state that they accepted the Applicant's belief that in the family courts the judges are biased and partial, and also that on paper it was not difficult to believe** while denying the appearance of the witnesses diverted from the reason and purpose for the witnesses to appear and **brings the Administration of justice into disrepute.**

70. When the Judge refused the thirty witnesses in housekeeping points the Applicant refused to take any further part and applied for permission to Apply for judicial review of the decision of Judge Goodin to refuse the thirty witnesses.

71. The Judicial review was heard on Tuesday 5th October 2004 by Lord Justice Kenne and Mrs. Justice Hallett. The behaviour of the judges with Mrs. Justice Hallet leading the judicial review was to ignore relevant facts, to intimidate the Applicant and to hostilely treat a litigant-

in-person preventing a fair hearing of the matter.

72. An up-dated skeleton argument had been served on the Court on October 4th 2004 the day before with an in-depth argument and based on all that was to be presented to the Court.

73. On opening, the Judges refused to allow the Applicant to take them through the argument and to the relevant material. They stated that they had read the argument and that he had to give them his best points when everything that he wished to say was in the skeleton argument.

74. Every time the Applicant tried to take the best points from the skeleton he was stopped from reading the arguments to them and even criticised for referring to the law presented on paper. The Judges paid scant attention to the arguments or the evidence.

75. The refusal by the Court of the review was to state that it was the remit of the Judge to refuse irrelevant evidence yet the Court did not know what the full defence would be and there is no obligation on a litigant-in-person to do so.

76. The Applicant asked for leave to Appeal to the House of Lords which was refused.

77. The Applicant then Appealed the decision to the Court of Appeal as the leapfrog route direct to the House of Lords would only allow the right to Appeal on the grounds of an important point of law with the permission of the High Court or the House of Lords rather than on the grounds of the judge being wrong in fact or in law.

78. The Application before the Court of Appeal in case number C1/2004/2368 was an administrative one which was an Appeal against the refusal of judicial review of the administrative decision refusing 30 witnesses relevant to the Applicant's case.

79. The grounds of Appeal given in the Application were that:

a) The Justices gave paid little attention to the oral argument presented.

b) The justices were hostile and ignored the facts of the case

c) The over-riding objective to deal with cases justly was not carried out

d) Violations of articles 6, 14 and 17 Human Rights Act 1998 and article 13 ECHR.

e) I have been unable to present my defence to an independent and impartial tribunal.

f) My case involves violations of International Treaties, the rule of natural justice and common law

g) This case raises the important point of law; does a litigant have the right to present his defence for an alleged Criminal Act and also when the Judge gave Direction's allowing his witnesses to be heard?

80. LJ Laws incorrectly states that this is a criminal cause or matter. **Whilst the initial proceedings were criminal, the Application before judicial review was for the Administrative decision of refusing the 30 witnesses during housekeeping points**.

81. If the Application for Appeal arose from criminal proceedings there is no apparent right to Appeal. If the same **Administrative matter arose from civil proceedings there is a right to Appeal**.

82. This brings up **an injustice within the system whereby I am being denied the right to have my witness testify on my behalf**; a most fundamental right and also access to justice.

83. LJ Laws refused access to the Court of Appeal in a letter dated 12th January 2005. It stated that '**This is a criminal cause or matter**. **This Court has no jurisdiction.'**

84. The Applicant twice requested leave to petition the House of Lords or leave be refused so that this may be addressed by way of the House of Lords.

85. In an order dated 23rd February 2005 LJ Laws ordered that there is **no jurisdiction to entertain an application for permission to appeal to the House of Lords.**

86. Therefore the Court of Appeal have not heard this matter on it's merits.

87. The decision of the House of Lords were made on July 1st 2005.

88. The decision being appealed was simply an Administrative action of the Court in refusing the fundamental right to have witnesses heard, violations of the Human Rights Act 1998 and the fundamental rights of citizen's of this country.

89. The witnesses would have shown that **a simple Act for publicity under the duress of the bias in the secret family courts was a matter in the public interest demanding to be publicised.**

90. House of Lords was reminded that history has shown that secret courts are doomed to failure as the Irish experience has shown. Diplock Courts as they were known encouraged law breaking.

91. The actions were to highlight the lengths to which the Secret courts go in hiding wrongdoings of CAFCASS officers, or other officials of the Court and State. In what would have been considered as perjury under the Perjury Act 1911 the Courts dismiss the action of the Court officials on the grounds that they are 'errors.' Dismissing the point that the official had given it in an affidavit.

92. Similarly Family Courts increase and not decrease acrimoniousness and do not assist in the difficulties faced when families break up. Much of the concerns in this case would be exposed in Open Court, but the Family Division has been practising in secret for far too long. To quote from the ***Guardian Unlimited*** (Sunday, January 16, 2005) Families Denied Justice: The Observer:

> The iron law of all bureaucracies is **'first we protect ourselves'**. In an ideal world they would look to free themselves from scrutiny by operating under the cover of secrecy. They would strive to deflect criticism by maintaining the pretence that it **was in the public interest to operate in absolute privacy**. If they could go further they would then make a **breach of their secrecy a crime punishable with all penalties up to and including imprisonment**. In an ideal world all bureaucracies would want to achieve **the state of perfect irresponsibility achieved by the Family Division of the High Court**… Shocked journalists discovered that Sir Mark had no experience of family law. They reported that Dame Elizabeth Butler-Sloss, the retiring president, had recommended that an insider be given the job, and Her Ladyship's wishes had been ignored. It wasn't only Dame Elizabeth who was upset. Other family judges resented the appointment and were furious that the job hadn't gone to one of their own. The charge-sheet lengthened as the outrage grew, and no one stopped to wonder who in their right mind would want to keep the courts the way they are. If Charles Dickens were around today, he'd be writing The Family Division. You might think that as a **British citizen you are innocent until**

proved guilty beyond reasonable doubt. And so you are when you are charged with a criminal offence. But **if you are ever unlucky enough to be faced with the prospect of having your child taken into care - a far worse punishment than a jail term for most parents** - you will find that the state need only prove that **you are guilty on the balance of probabilities**. You might think that it's a basic tradition of the English law that justice must not only be done but be seen to be done and that **secret justice is no justice at all**. Not so in the Family Division**. Enter into its courts and you enter a British Guantanamo where basic traditions no longer apply**. One case involved a couple in Essex who had taken the baby to hospital because he had a bump on his head. They were accused of attacking him. **They managed to find medical evidence which proved their innocence, but it was too late: the boy had been adopted. No appeal. No redress**.

The **most notorious incident was during the Rochdale witch craze when children were dragged from their homes by social workers convinced they had uncovered a coven of Lancashire devil worshippers**. Parents went to their councillors, **who could do nothing because they had been warned that it was illegal to ask what was going on**.

93. It was an act of civil disobedience **which every citizen of the UK has the right to use when democracy and basic rights are being abused and legitimate means failed**. This is a public interest matter of great public importance. Thousands of fathers, grandparents and children are affected by these matters. Increased costs of criminality, drug and alcohol abuse, teenage pregnancies, rape and the poorest ever mental health of teenagers can be firmly laid **at the doors of CAFCASS which is described as the ''eyes and ears of the Court'' and the lack of judicial integrity in closed Courts**.

Reasons for the civil disobedience act of painting a door.

94. In the *Climbie Inquiry [2003] / Laming Report [2003*] it was revealed that **the abuser, Marie-Therese Kouao had made sexual abuse allegations to cover up her own abuse**. Not only does this case have similarities with the Lillie & Reed case {(*Lillie & Reed v Newcastle City Council & Others [2002] EWHC 1600 (QB)* } but also with the Climbie Inquiry and Lord Laming could not understand that why so called professionals only believe the wrong doer.

95. On the question of **necessity**, the witnesses would show that a reasonable person as defined by the Common law would agree to this act of simply painting a door in order that these serious and on-going issues get addressed for the sake of social and community cohesion and to prevent crimes whether in public office or by the innocent child victims of the system.

96. This painting of the door was certainly the lesser of two evils, where it is necessary to ***avoid a harm or evil to myself and/ to another***. The evil in question is not only imminent but taking place on a daily basis.

97. Without the witnesses being heard no judge can address the Men's Rea, the reasons and truth behind that which had been alleged. Neither is it possible for the Court to ascertain the vast difference between a sincere belief and fact. If the Judiciary in the Family Court are

biased, then this is fundamental to the Men's Rea and to ignore this matter brings the Administration of Justice into disrepute.

98. While juries are, I understand, allowed to know the defendant's motives, may on occasion acquit an abortion clinic protestor or nuclear plant trespasser, as well as folks passing out free needles to addicts or cancer patients possessing weed, the appellate courts seem pretty uniform in holding that there is no necessity defence to such acts of civil disobedience, particularly when the law one violates, e.g. criminal trespass, is not the law or policy that is being protested. The typical reason for rejecting the necessity claim seems to be either that the danger was not imminent and/or that the legislature or constitution has already spoken.

99. It has consistently been argued for a jury trial given that the Applicant sincerely believes the judiciary to be biased and partial and has substantial evidence and witnesses to prove the case.

100. This was further shown when another father Dave Chick was found not guilty by a jury of being a public nuisance for expressing his human rights when he has not seen his child for one and a half years.

101. The Applicant, a teacher and able to teach any child in the UK except his own and whom he **has not seen for over six years**, has evidence of a criminal and unlawful nature against the Local Authority, CAFCASS and the Family Court judges and his children have been harmed.

102. Eight days after painting the CAFCASS door purple (February 13th 2003) the Government ordered a Select Committee enquiry into CAFCASS.

103. Such is the concern that a Select committee enquiry was later ordered into the Family Courts yet **no organisation is permitted to give oral evidence on the wrong-doing of the judiciary** and no-one has done so orally. Indeed the judiciary declared there was no bias against fathers and that the only evidence as anecdotal.

104. **Margaret Hodge MP refuted any bias against fathers as did all other organisations giving oral evidence**. Quite clearly the Government is not interested in genuine exploration of what is going wrong in the Secret family Courts and this is a ruse for more public funding without addressing the real and serious issues.

105. On January 17th 2005 in case number B4/2004/2341 Lord Justice Ward kindly gave the Applicant leave to Appeal the refusal of HHJ Milligan to permit a legal assistant in an Application for him to recuse himself and for transfer to the High Court, in order that **LJ Potter and another Lord Justice may ''see what happens in closed Courts**.''

106. As it transpired LJ Potter chose not to hear the matter but it was heard on April 28th 2005 when the Court had co-joined two other cases against the Applicant's wishes and refusing the Applicant argument on the co-joining, to hear the matter on the narrow point of law of the right of a litigant-in-person to have a McKenzie friend.

107. Notwithstanding the narrow issue the two Lord Justices Wall and Thorpe removed HHJ Milligan from further conduct of the case although not on the facts as presented to the Court and transferred the matter to Mr. Justice Coleridge.

108. Having heard all the evidence given on November 9th 2004 to the Select Committee enquiry it was clearly stated by the judiciary giving evidence that criticisms of the Courts of

bias by fathers are anecdotal; there is substantial evidence not only from the Applicant's own case but also from the witnesses and other cases the Applicant and others have been involved with.

109. The judiciary it may seem would appear to be suffering from extreme selective memory loss. Dame Butler Sloss stated that a judge who gave unsupervised contact to a father who is dangerous should have his family law ticket taken away. The same should apply to both sexes if there is no bias. Even this quote shows bias against fathers when domestic violence and maltreatment of children by mothers is greater or equal to that of fathers.

110. In some instances the judges give residence to a mother well-known to be abusive and/ or violent. If most murder and/or child abuse cases are looked at e.g. Victoria Climbie, Chloe Murray, the main culprit is the resident parent i.e. the mother.

111. The largest study taken to date on child abuse in the USA states clearly that the mothers are more responsible. **Female Parent Only 44.7%, Male Parent Only 15.9%**, Both Parents 17.7%, **Female parent and other 7.9%**, and **Male Parent and Other 1.1%**. Similar NSPCC studies are available but because most of these where showing female abuse there is a brick wall mentality and the NSPCC portrays fathers rather than mothers as the main offenders.

112. Having heard all the submissions given by the judiciary to the enquiry what most judges have knowingly committed is knowingly introducing 'material' that neither party raised or contested but then becomes an issue further alienating the parents.

113. In almost all the cases that the Applicant knows of – the judiciary gives scant regard of the child's involvement in extended families and this is particularly critical in Asian culture which is based on an extended family system. However, **it would be foolhardy to believe that Caucasian grandparents, aunts and uncles do not yearn for a similar relationship with the child.**

114. One most important factor that the judiciary deliberately in our view refuses to accept is the syndrome known as **parental alienation syndrome perpetrated by the resident parent against the non-resident parent**. It is naïve to think that the children are not influenced in order to please the resident parent and over a period assumes the behaviour pattern of the resident parent and all its negative traits against the non-resident parent which is usually the father. Parental alienation syndrome (PAS) recognized in ECtHR, USA, Canada, Israel, Spain, Germany etc but not in the UK, which is a most severe form of child abuse. The lady who was also arrested was a victim of parental alienation syndrome both as a child and as a mother.

115. Aside from the Judiciary all these hearings are held in camera, whilst the mother is afforded unlimited legal aid and in some instances **not in one area of the UK but two areas with different legal aid boards** whilst the father is refused any form of legal assistance and in some instances refused to allow a McKenzie friend.

116. CAFCASS: There are numerous occasions when reports written do not bear out the facts of the case, involving independent people but the Judges do not see this or choose to ignore any arguments made by fathers regarding the reliability and/ or partiality of the reporter. In only a very recent hearing the CAFCASS officer stated clearly ''**I am here for the mother,'' the same CAFCASS officer had given a report without even meeting the**

father.

117. Social Services: On the matter of Social Services there is evidence which clearly shows that social services without supporting facts **make false allegations against fathers based on mother's hearsay, and when it can be shown that these allegations are false the judges however maintain the "status quo" thus denying the children a relationship with their father and extended family**.

118. The Courts: All the hearings regarding children are held in secret and the reasons given are to **protect the children's identity** it is hypocritical of the Courts to use that as an excuse when children playing truant are not only named in newspaper but they are photographed and interviewed.

119. Further evidence of hypocrisy of the judiciary is with regard to **juvenile courts** where the identity of the child is well publicised as are the divorce cases of children of the rich and famous. It is believed over the years of working in this area that the secrecy is there to cover up of the abuse of the rights of children, fathers and grandparents.

120. There is also evidence to show where Courts have knowingly broken laws enacted by parliament and despite bringing this to the attention of the Court, the Courts cover-up even up to the House of Lords.

121. These abuses of Human Rights, the lack of effective redress and the imbalance against communities, and social cohesion, have led to the high and **increasing rate of teenage pregnancy, criminality, delinquency, drug and alcohol abuse, self-harm and the poorest mental health ever of our teenagers**.

122. What future lies in store for the next generation and this? The Government now are bringing in ever more draconian laws such as the harassment Act ostensibly brought in for stalking but only used for stalkers in 4% of cases, anti-social behaviour orders, and greater powers to the Local Councils to fine people on the spot for littering and other non-criminal acts.

Sample evidence of widespread, systematic and persistent abuses of power by the judiciary:

- Lord Justice Thorpe was advised like many others of the failings in the family division in 1998 and 1999. As the President of National Council of Family proceedings he was informed of cases such as those below yet did nothing:

- Contact held at ninety minutes a week (supervised) because the child weighed less than average at birth. No other defects or reasons.

- Overnight contact was with-held for the third year because the father fed the child at lunchtimes. Child ate it; therefore was hungry and underfed. Contact denied.

- Father wore a suit for the first time to see his child. Child did not recognise him, Court told and accepted the child did not respond to father's affection. Court orders no contact for two years.

- The mother denied contact for six months. During a 15 minute

supervised session with two court welfare officers making notes on a game of snakes and ladders; **child throws dice off board and therefore court accepts recommendation of no contact because of child's aggression towards the father**.

♦ In yet another such case, mother refuses all contact; CWO does not interview the mother or child. Father wants contact. CWO advises no contact on the basis that the parent's attitude will have to change. Courts give no contact for a further one year and last known of to be continuing.

♦ In one incident outside Court 32 on the 23rd January 2003, Honourable Mr Justice Singer was loudly heard saying to a child, "**If you don't go with your Mum, I'll put you in a place where you can't see your Mother or your Father - How do you like that?**". He was assisted by Mrs Susan Cheesley, the Acting Deputy Tipstaff and a CAFCASS officer Mrs. Raleigh, see; (http://www.home.ican.net/~kidshelp/Suspended-Page.HTML). These are not uncommon scenes as most children will tell anyone who listens to them. In this case, the child had been badly beaten by his aunt (a social worker) and mother - police refused to intervene, and so did the court.

♦ Dame Justice Hale: in a case **where a father was appealing an earlier decision of only one hour contact per month, concluded that 'this appeal is unmeritorious'**.

♦ Judge Catlin: a) **when a mother refused to obey an order for shared residence**, he ordered the cessation of all contact between a father and his two sons in response to unsubstantiated charges of abuse; b) at a subsequent hearing 12 months later, when all charges of abuse had been dismissed by the investigating officer, **he ordered 1 hour of contact between father and son per month**.

♦ Mister Justice Sumner: ordered costs against a father who sought summer holidays with his child.

♦ Mister Justice Johnson: **ordered a father declared a vexatious litigant for seeking more than one overnight per fortnight with his 5-year old son. Upheld on appeal by LJ Thorpe**.

♦ Mr Justice Sumner: **'It is simply not on' for any parent to return a 3½ year old child home as late as 6 pm on a Sunday**.

♦ District Judge Kenworthy-Browne: A child of 3 'will have developed no Christmas associations with the father, and even if he has spent Christmases at the father's home, he will not remember them. As such, he will not expect increased contact with his father over the holidays.'

♦ District Judge X (case pending): ordered the **cessation of all contact between parent and child, with no review, 'in order to try to move forward and restore the relationship.'**

♦ Judge Segal: cancelled after 30 minutes a full hearing at which the

father sought any summer holidays **and rescheduled it for after the summer. Upheld on appeal.**

♦ District Judge Lipman: ordered that a father be allowed only 2 weeks of holiday (out of a possible 13) per year: "You have the midweek contact (3 hrs per week) instead of this."

♦ District Judge Hindley: dismissed a father's application to phone his 7 yr old daughter on Christmas morning calling it **'too disruptive - she would be opening her Christmas presents**.'

♦ Judge Milligan, to a parent who had been unsuccessfully trying to see his child for 2 years: 'This is a father who needs, in my judgment, to think long and hard about his whole approach to this question of contact and to ask himself sincerely whether in fact he seeks to promote it for **his own interests dressed up as the child's interests.'**

♦ District Judge X (case pending): ordered that a father who had not been allowed to see his children for 4 months should have his case deferred for another 4 months pending investigation of an unsubstantiated 1972 domestic disagreement from a previous marriage.

♦ Mr Justice Cazalet: in hearings spaced over 2 years 1) ordered end of Friday overnights on grounds that the child had to rest after school, and 2) ordered end of Saturday overnights on grounds that she had to rest all day Sunday before school on Monday.

♦ Deputy District Judge Pauffley, in raising a father's contact to 18 hours per month after 1½ years of litigation: 'What will never be helpful is for the father to see his contact in terms of mathematical division. Apparently he is running at a disadvantage of 999 to 1… the court does not look at it in those terms.'

♦ District Judge Thomas, in reply to a father who had been cut off from all contact with this three children for six months: 'And I see that you would like me to grant an Order that the mother file a statement to show good reason why there should not be normal contact. Well**, I'm not going to do it**!'

♦ Judge Calman ordered that a father, who lived within 300 yards of his son's primary residence**, should never answer the door when his son rang**.

♦ Rt Hon Lord Justice Thorpe, in rejecting the appeal of a father who wanted to cross-examine a Court Welfare Officer (whose evidence prevented him from seeing his children), affirmed that '**there is no right of cross examination of Court Welfare Officers**.'

♦ Mr Justice Wilson, **acting against what he called 'the deep wishes and feelings of three intelligent, articulate children,' ordered the end of all direct contact with their father**. Upheld on appeal by Butler-Sloss, LJ.

♦ Judge X (case pending): after repeat applications about serial breaches of a contact order since early 2001, ordered that the issue be reviewed in late 2002.

♦ Mr Justice Munby ordered the end of all direct contact between a father and his three children while noting that the mother **'wished the children could have contact with the father. She said there was no need for all this litigation. The children should see the father**."

♦ Judge Segal postponed a full hearing in order to obtain a Court Welfare Officer report on two parents who had brought no charges of misconduct against one another by stating: 'Well, I think both parents have fallen over backwards to avoid causing the child any sort of harm, but a child always suffers when a marriage breaks down . . . You see, **it is possible to kill with kindness by doing too much**.'

♦ Mr Justice Sumner reproved a father who had made one application to the court over two years of litigation, and sought more than twenty-six nights of contact with his child per year: **'You feel better because you can put pressure, you can bring everybody to court**.'

♦ Judge Turner, in reply to a parent who sought to question a Court Welfare Officer's report: 'That confirms my suspicions. This is what members of the public do when they disagree with the recommendations. I believe that its totally wrong that members of the public can challenge Judges and Court Welfare Officers. Officers should not be subjected to it. There is a procedure outside the Court about making a complaint against the Judge. **Members of the public should not have the right to make complaints**."

♦ Judge Agliomby, on refusing overnight contact for the third consecutive year: 'The point that struck me most was that the very first question the father asked the mother was whether they might not get on better if she let him see the child.'

♦ Judge Lamdin dismissed a father's request (after three years of litigation) for any overnight contact with his six year old on the grounds that 'the child is growing up knowing his father, and that what we are talking about, i.e. overnight staying contact, is something quite different.'

♦ Judge Kenworthy-Browne, known by the staff at First Avenue House for repeatedly bringing his dog to court, rebuked a litigant-in-person for not wearing a tie.

♦ Senior District Judge Angel misinformed a complainant that 'there is an unrestricted right of appeal' in contact cases. (There is, in fact, little if any right of appeal.) When this was brought to the attention of the President of the Family Division, her office replied that she 'considered the matter closed.'

♦ Mr Justice Munby **sentenced a father to four months in prison for giving his children Christmas presents** (a bike, a camera and a walkman) during a scheduled contact meeting. Upheld on appeal by Thorpe LJ and

Butler-Sloss LJ.

♦ Judge Goldstein, after a father filed a complaint against him, ordered all contact between that father and his children stopped for three years. Overturned on appeal by Butler-Sloss LJ, who described the judge's behaviour as 'outrageous.'

♦ Judge Plaskow rejected a father's request for overnight contact with his 4-year-old, and ordered court costs against him, on the grounds that the child might require a special diet.

♦ Judge X (name withheld by litigant) told a father who sought more than 2 hours contact with his young child per fortnight that 'it may well be that the father is being too possessive.'

♦ Judge Agliombi warned a father who was arguing that costs should not be ordered against him because the mother was depriving their child of a father: "If you go on like this you stand in great danger of never having staying contact with your son."

♦ Judge X (case pending) ordered that a father, **who had waited seven months for a full hearing without seeing his children, be permitted for six months to write them no more than one card/letter every three weeks, without any direct contact**.

♦ A judge invented a hearing that had never taken place on October 5th 2000 in order to put more conditions against the teacher father. Same judge accepted a social worker under oath as stating '**I can tell if a mother is emotionally unstable over a mile away, I do not need to see them, I can just sense it**.'

♦ Judge Lloyd ordered that **an ordinary father be permitted to write his child once per fortnight** on the condition that the letter's contents be reviewed by an officer of the court.

♦ LJ Ward C v C The judge accepted that the Court had been biased against the father, and stated that the father had suffered discrimination not only as a father but as a black Asian father. He described the mother as "**I am very critical of the mother….Her conduct was the lowest level totally inconsiderate…. It was inconsiderate, it was discourteous, it was unfeeling**. It was not the decent way parents behave towards each other. At worst, it was thoroughly deceitful….It was a deplorable bit of behaviour. She should be ashamed of herself….I will direct that a copy of this judgement be prepared and sent both to the father and, **more importantly, to the mother; more importantly, because I think that she should read it, reflect upon it in the deep dark hours of the evening, and ask herself whether this degree of hostile conduct to the father is in fact beneficial for her children**." The extremely forceful findings of LJ Ward (Re C [2004] EWCA Civ 512) were upheld by LJ Thorpe & Mr. Justice Munby (Re C [2004] EWCA Civ 1056). Despite these findings the Application for leave to Appeal were refused.

♦ A judge denied a child's daytime wetting even when presented with three years of paediatric notes to prove it.

♦ HHJ Milligan refused a father a McKenzie friend on the grounds that he could complete a bundle i.e. number pages in order and on hearing an Application to recuse himself. After giving a judgement on the question of the refusal of His McKenzie friend then gave a speech on his views that there had been no wrong-doing by himself or the State agencies and clearly had a pre-determined and closed mind before even hearing the case. He stated '**come to me in a different fame of mind and anything might be possible**.' This was overturned on Appeal, the words being described as unfortunate!

♦ Mr. Justice Sumner on Appeal denied the father even contact because although admitting that the mother's parenting was poor, (the father was described by the social worker as ''I wish all fathers were as caring as you''), **the judge's concern was that if he had contact it would undermine the mother's relationship with the children!**

♦ Another father was criticised by the CAFCASS officer **for not singing to the children whilst in the bath in order to criticise his parenting skills** and the Local Authority used an allegation of domestic violence from one year prior to the taking of a child into care in order to justify the Local Authorities actions.

♦ In another case **the judge believed a mother who had already been criticised for being deceitful** and acting against the best interests of the children yet although he could not find the order in the court file which the mother (again untruthfully) stated had been made - **but had not in fact been, still made an order against the father**.

♦ LJ Scott Baker hearing an Appeal against an order for supervised contact from a proven innocent father, the victim of false allegations of sexual abuse, **failed to address any issue of fact or of law and blindly agreed with the lower Court judgement** whilst failing to address the issues including child abuse by the mother. **He then refused the father permission to obtain a transcript of the hearing**.

♦ In H V H the Appeal Court upheld the lower courts judgement agreeing with the CAFCASS officer **refusing to allow a German national father to speak in their usual language, German, to his children**.

♦ LJ Potter in Davies v Davies on 17th february 2005 stated in paragraph 34 that 'dishonesty, fraud and non-disclosure by the respondent – that was raised before the judge and it seems clear that the what he did was to observe realistically that it was unlikely that the errors in the affidavit or the dishonest statements alleged by the applicant would be considered by anyone as perjury. No doubt that was a reference to the fact that it is unfortunately the case that, in proceedings of this kind, **parties are frequently less than frank with the court. Perjury proceedings,**

however, are rarely instituted or followed.'

123. This brings **our courts** into disrepute and parties to legal actions in the family courts whether financial or children's matters must be made aware that the rule of law, natural justice and honesty count for little and Court actions are contrary to the Sex discrimination Act 1975, articles 3, 6, 8, 14 and 17 HRA 1998 among other. The judges are Guardians of our laws and have no Authority or power to behave in the manner they are.

124. **It is the judges** and not the powers of the judges or the law **that is the issue as opposed to much orchestrated currently held views**, often quoted in the newspapers, by judges and leading family law solicitors that the Courts do not have sufficient powers. The judges have forgotten their oath to **do justice by mercy and right**.

125. The Court may on hearing the defence, which has never yet been heard as to whether painting the CAFCASS door purple on February 5th 2003 was a Criminal Act, find the Applicant guilty as charged by the state, but until my defence is heard the outcome is unknown. The Doctrine of innocent until proven guilty must be the base of Common, Criminal Law and our Human Rights.

126. The Applicant is quite happy to be found guilty if that is what the Court finds when the defence is presented. In the amended words of Martin Luther King Jr (1929-1968), "I submit that an individual who" speaks against abusive judiciary "that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for the law".

127. The Appellant refers to the Public Interest Act 1998 as a teacher with training in special needs, anger management and science: Qualifying disclosures are disclosures which the worker reasonably believes tends to show that one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:

a criminal offence;
the breach of a legal obligation;
a miscarriage of justice;
a danger to the health and safety of any individual;
damage to the environment; or
deliberate concealment of information tending to show any of the above five matters.

128. All of these apply to this case. The Applicant; a teacher, trained and knowledgeable in matters relating to children and knowledgeable of the abuses within the family Court reporting system believe that this must be exposed to prevent a further generation of children going though this vile system. What chance do our own children have if this is permitted to continue unabated?

129. The Trade Union of CAFCASS/ FCWS is the National Association of Probation Officers (NAPO) who asks their officers to collude with the mother as all women suffer abuse in the Patriarchal society, provide anti-heterosexual training to their officers and are plainly biased against men, fathers and heterosexuality. (Confirmed in their 'anti-sexism policy). Currently gay couples have more rights than unmarried heterosexual couples and they even have a European Directive to protect them.

130. A clergyman was found guilty of insulting behaviour when only making heard his

right to freedom of speech because he disagreed with homosexuals. Times Jan 28th 2004. Here we have an organisation, NAPO, in the public domain, a public authority, **openly providing anti-heterosexual training, which is a much greater offence, and with an extreme bias against heterosexuals and fathers**.

131. CAFCASS and many Local Authority Social Workers are a public nuisance, without an effective complaint system and knowingly providing fraudulent reports. **CACASS are only limited by the Probation Service National Standards, full of bias and knowingly abusing their power**.

132. Social Services and CAFCASS have acted in abuse of their power and beyond their discretion. In the words of Lord Browne-Wilkinson: 'Where Parliament confers a discretion the position is not the same. there may, and almost certainly will, be errors of judgement in exercising such a discretion and Parliament cannot have intended that members of the public should be entitled to sue in respect of such errors. But there must come a stage where the discretion is exercised so carelessly or unreasonably that there has been no real exercise of the discretion, which Parliament has conferred. **The person purporting to exercise his discretion has acted in abuse of his power. Parliament cannot be supposed to have granted immunity to persons who do that**.' X. (minors) v Bedfordshire County Council (1995) 3 WLR 152 Lord Browne-Wilkinson 170 (F).

133. Customary law throughout the world now considers torture in whichever form as unacceptable. Under the UN Convention 984 the preamble very clearly spells out that the rights of inherent dignity of the human person must be respected and no-one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

134. Europe has its own Convention on the prevention of torture, inhuman or degrading treatment or punishment 1987. ECtHR has provided copious case law clearly stating that torture does not have to be physical; it can also be mental e.g. (Tekin v. Turkey judgment of 9 June 1998, Reports 1998-IV, pp. 1517–18, §§ 52 and 53).

135. CAFCASS are guilty of the torture of fathers, children and grandparents and are in breach of International Covenants and also Article 3 of HRA 1998; ECHR.

136. In the Applicant's case, when his daughter told the social worker she wanted to live with her father, the social worker wrote to the Police and stated that he must not have any contact as they had child protection concerns, yet there was not a shred of evidence as CAFCASS had purposefully misled the Social Services department and the court knowingly so.

137. The happenings to children are no different that that which happened to Victoria Climbie – "too much time was spent deferring to the needs of Kouao and Manning and not enough time was spent on protecting a vulnerable and defenceless child." – Laming Report [2003] para 1.65.

138. The Applicant is a father denied all contact with his own children since October 27th 1999 by the mother, State Authorities and the Court as a teacher of Science, special needs and trained in anger management. There has been a horrific failing by the Local Authority Social Services dept and CAFCASS knowingly so and fraudulently in **order to protect an abusive and violent mother with a long history of emotional and psychological problems from responsibility for her own actions.**

139. Under the Common Law and in the interests of natural justice the question arises does the Applicant have the right to present his defence to the court?

140. The Common Law derived from the Magna Carta, the great charters of 1215 and 1225 which put the way in which the Crown was to administer our rights has not been repealed in full and therefore is still our law. Chapter 29 was quoted in part, in the US Guatanamo Bay case. **Magna Carta is our Law and forms the base from which our Common law is derived**.

141. Halsbury Statutes Article 29 reads ‘’No freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any other wise destroyed; nor will we pass upon him, nor will we condemn him, but by the lawful judgement of his peers, or by the law of the land. **We will sell to no man, we will not deny or defer to any man either justice or right**.’’

142. The Bill of Rights of 1688 is also still Law. In Bowles v Bank Of England 1912 Parker J Chancery division ‘’The Bill of Rights still remains unrepealed, **no practice or custom, however prolonged, or however acquiesced in or on the part of the subject, can be relied on by the Crown as justifying any infringement of it’s provisions**.’’

143. In 1976 in the court of Appeal lord Denning M.R. up-held the Bill of rights in Congreve v The home Secretary over a £6 increase in TV licenses. He said; ‘’ **These Courts have the Authority – and I WOULD ADD THE DUTY – to correct a misuse of power by a Minister or his Department, no matter how much he may resent it or warn us of the consequences if we do**.’’ Padfield v Minister of Agriculture Fisheries and Food 1968 A.C. 997 is proof of what I say. It shows that **when a Minister is given a discretion- and exercises it for reasons which are bad in Law-the Courts can interfere so as to get him back on the right road**…A Minister is a Public officer charged by parliament with the discharge of a public discretion affecting her Majesties subjects; if he does not give any reason for his decision it may be, if circumstances warrant it, that a Court may be at liberty to come to the conclusion that he had no good reason for reaching that conclusion and order a prerogative writ to issue accordingly.’’

144. In Ashby v White 14th January 1704 HOLT CJ said ‘’If the Plaintiff has a right, he must of necessity have a means to vindicate and maintain it, and a remedy if he is injured in the exercise or enjoyment of it; and **indeed it is a vain thing to imagine a right without a remedy, for want of right and want of remedy are reciprocal**.’’

145. More recently, in Watkins V Secretary of State for the Home Department and others, (Times Law reports 5th August 2004), LJ Laws clarified misfeasance as one not necessarily involving monies and further stated there were two types of cases, first where there was economic loss and/ or material injury by virtue of a Public Officer’s wrongful and malicious Act (Three Rivers) and second as case law developed in Ashby – **where claimant adversely suffered in a different sense and where the wrongful act might have interfered with a right of a kind which the law protected without proof of loss**.

146. We have rights based in our civil Law as pointed out by Lord Justice Ward; [2004] EWCA Civ 512 Re C Case B1-2004-0139 LJ Ward B1/2004/0139 Neutral Citation Number: [2004] EWCA Civ 512 Friday, 26 March 2004Paragraph 8 – ‘’It leaves him, not surprisingly, protesting to me that he did not receive a fair trial of this important matter. **Whether he relies on Article 6, as he does, or whether he relies on fundamental principles of English law, there is very considerable force in his submission**.’’

147. R. v Bowden 1995 Court of Appeal (98 1 WLR) Regarding local authority employees - **the common law offence of misconduct in public office applies generally to every person who is appointed to discharge a public duty and who receives**

compensation in whatever form – salary, wage, expenses and the like.

148. In County Council v. C High Court of Justice Family Division The Honourable Mr Justice Munby 1st July, 2002 said; ‘’The State, in the form of the local authority, assumes a heavy burden ...Part of that burden is the need, in the interests not merely of the parent but also of the child, for a **transparent and transparently fair procedure at all stages of the process** - by which I mean the process both in and out of court. **If the watchword of the Family Division is indeed *openness* - and it is and must be - then documents must be made openly available and crucial meetings at which a family's future is being decided must be conducted openly and with the parents, if they wish, either present or represented. Otherwise there is unacceptable scope for unfairness and injustice, not just to the parents but also to the children. ..as I pointed out in *Re B* at p 1041 (para [68]), about `the interest of the child in having the material properly tested**."

149. He also said ‘’The watchword of the Family Division is **openness**. Everything must be above board.....proper regard is to be paid not merely to what domestic law and practice have long recognised as appropriate but to what articles 6 and 8 now require if there is to be proper compliance with what the Convention demands.’’

150. Judge Munby further stated that ‘**We cannot afford to proceed on the blinkered assumption that there have been no miscarriages of justice** in the family justice system. This is something that has to be addressed with **honesty and candour** if the family justice system is not to suffer further loss of public confidence. Open and public debate in the media is essential.’ Yet this has not been the case to-date.

151. It is inconceivable that a father would be given sole residence as the mother has in many of these cases and the mother ordered to attend supervised contact sessions (or worse) in a contact centre which is only for drug abuse, alcohol abuse, child abuse and serious domestic violence concerns. This is contrary to the precedents set in re M (Minor) 1994 CA, Re K (A Minor) (residence order) 1999 CA, Re F (shared residence order) 2003 EWCA civ 592, A v A (2004) EWHC 142 (Fam) and V v V (2004) J Bracewell unreported.

152. The basic Common Law rights of a parent has been well-established in law and fortified through the European Convention of Human Rights yet theory and practice do not mix in closed Courts.

153. Lord Denning said: ‘’**Justice is not a cloistered virtue, but should be open to the scrutiny of the average man to err there within**.’’

154. Her Majesty’s courts **must always be open to all citizens and foreigners alike who seek just redress of perceived wrongs**. Lord Steyn March 2004.

155. History indicates that a proliferation of laws is an indication that a society is in bad health: ‘’**when Parliament proceeds to deal with all the details of our daily lives there must inevitably be a great danger of law losing its moral sanction.**” Judge Michael Hyam.

156. If the government becomes a lawbreaker, it breeds contempt for the law**; it invites every man to become a law unto himself; it invites anarchy**...**Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of its own existence**." U.S. Supreme Court Justice Louis D. Brandeis, 1928 (Olmstead v. United States).

157. As Lord Hewart stated ‘It is not merely of some importance, but it is of **fundamental**

importance that justice should not only be done but should manifestly and undoubtedly be seen to be done': Lord Hewart C.J. in Rex v. Sussex Justices [1924] 1 K.B. 256,259.56.

158. Family Law clearly is under a great deal of scrutiny and protest against the actions of CAFCASS and Local Authority Social workers. From fathers-4-justice's appearances of superheroes on Court rooftops and bridges, purple condoms, and Batman on Buckingham Palace and the Foreign Office to the arrest of grandmothers, expert witnesses being discredited with regard to Muchausen Syndrome By Proxy cases Angela Cannings, Trupti Patel, Sally Clark et al, and a flurry of concern over the actions of the UK Adoption industry.

159. This is a supreme public interest matter not only being observed in the UK with interest but throughout the world. The Judiciary cannot abdicate its responsibility by making such statements as "**we sympathise with father that mother is dishonest and deceitful**" but than say that they have no powers.''

160. Public are beginning to see for themselves the depth of abuse by the judiciary in all fields of law. UK judiciary is on trial here and one which I had wished to present under oath in the criminal court in full for the truth to be shown as to the Men's Rea in what is a civil disobedience matter of major and national importance.

161. The Department of Constitutional Affairs make many claims as to their behaviour such as providing recourse if rights are infringed, transparency and accountability, building trust between the people and Government, and real change for the public and not the providers. **The act of painting the door purple is to expose the hypocrisy, bias, and unlawful actions of the UK State and judiciary** for whom the Government are responsible to ensure they are independent and impartial.

162. This is a matter in the general public interest and for the benefit of social cohesion, harmony and the well-being and development of our society and future generations.

III Statement of the alleged violation(s) of the Convention and/ or protocols and of relevant arguments.

ARTICLE 6 ARGUMENTS

163. The incident the Applicant is accused of, was one of civil disobedience demonstrating against the partiality of the judicial and the other State institutions e.g. CAFCASS, Social Services etc. By these parties' actions, they effectively aid and abet in the destruction of families.

164. It was hoped to cause sufficiently significant interruption in order that the matter would appear in all media to start a national debate on the institutionalised destruction of families by State.

165. The Applicant has been able to maintain his own integrity despite undergoing years of emotional and traumatic stress at being separated from my own children as well as being badly treated by the judicial system. The only objective has been to receive a fair and impartial hearing which to date has been consistently denied not only in the secret closed Family Courts but also now in the Criminal Court.

166. In UK law the definition of a crime is distinct from a civil wrongdoing in that where a wrong-doing has been committed the wrong-doer is liable to punishment but in a civil wrong-doing the wrong-doer is required to pay a fine to the offended person. A crime may be defined as an act or omission deemed by the law to be a public wrong and which is therefore punished in criminal proceedings by the State.

167. The matter before the Court and being raised through the simple act of painting a door purple, (which is not disputed) is: What was the mind or the Men's Rea of the accused at the time, what did he think, believe, and what were his motives.

168. The Applicant has been unable to achieve effective redress and has had little recourse through the normal State complaint's systems, Appeals, and seeking help from Councillors and MPs. Whilst in theory they should give the right to redress and respect our Human Rights this has not been the case to date. They do not do so because the system is knowingly biased against men.

169. Non-violent dishonest women do not go to jail. Men do. 6% of the prison population are female, 94% are male.

170. Few fathers get custody of their children or even a fair hearing. Women do and the system aids and abets them. Women get help from their MPs, lawyers and the State bodies. Men on the whole don't. Human Rights lawyers have not as far as the Applicant is aware fought one single case for white heterosexual fathers and I know of none fighting for any heterosexual fathers.

171. Men simply do not have their Human Rights respected in practise which is unlawful; contrary to article 14 ECHR, Sex discrimination Act 1975 and the UK Equal Opportunities Commission employs as far as the Applicant is aware employ only women!

172. The question that the State has not yet ascertained is has a crime been committed and if so what and are there any defences which the accused can show to be relevant including self-defence, duress, human rights, public interest disclosure, the natural law etc. The Applicant still has not been able to give his defence to an independent and impartial tribunal as is his right under law.

173. The Nazis were ruled under the natural law to have acted knowing that they were acting wrongly and the Nuremburg trials had to rely on the Natural law to convict them. Those in positions of power and Authority in this country are acting no differently and I demand the right to have them exposed for their breaches of human rights, national laws and the natural law.

174. A fundamental principle of Criminal law is the maxim actus non facit reum, nisi mens sit rea – **an act does not make a person legally guilty unless the mind is blameworthy**.

175. The Applicant was charged with '' On Wednesday 5th February 2003 at Ipswich in the County of Suffolk together with father Christmas and Sarah Ashford without lawful excuse damaged a door of a value unknown belonging to CAFCASS, Foundation Street, Ipswich intending to destroy or damage such property or being reckless as to whether such property would be destroyed or damaged contrary to section 1 (1) of the Criminal damage Act 1971.''

176. Section 1(1) provides that a person who without lawful excuse destroys or damages any property belonging to another, intending to destroy or damage such property or being reckless as to whether such property would be destroyed or damaged is guilty of an offence punishable on indictment with imprisonment for a maximum of ten years.

177. Property is damaged if it is rendered inoperable or imperfect. In the test for inoperability or imperfection is minimal there is no damage for the purposes for the Act and this depends upon the common-sense of the Magistrates or the Jury.

178. The fact in this case is that the persons who have caused damage is the Police by arresting us by not allowing a timely painting job to be finished and have failed to take into account our rights under article 10 to express our Human Rights.

179. In the terms of Mens Rea of section 1(1) of the said Act requires that the **accused should intend, or be reckless to, the destruction or damage of property belonging to another.**

180. This was not the case, yet it has not been possible to present the defence to an independent and impartial tribunal as required by law.

181. Whilst it is true the initial plan had been to confiscate, **temporarily**, computers from the

Bury St Edmunds CAFCASS offices to avoid prosecution under the Theft Act 1968, no-one has permitted the Applicant the right to present his defence to a Court/ tribunal or jury based upon the facts of the case.

182. There has been inadequate protection of the Applicant's rights under articles 3, 6, 10, 14 and 17 of the Human Rights Act 1998, the criminal/ civil rights in this country and the natural law as this is a Public interest matter of general public importance and one which exposes much of the hypocrisy and unlawful gender bias in this Country.

183. Only a jury trial would protect the Applicant's rights under article 6 since the matter raises serious concerns for the welfare of fathers and their children in secret Courts no different to Diplock Courts in Ireland or the abolished Star Chambers.

184. Under Article 6 of the Human Rights Act (HRA 1998), it clearly states that the tribunal and/or courts must be seen to be independent. The application to the Magistrate's Court made prior to the hearing of the June 18th requested that the matter be transferred for a jury trial. **A Court official, not appointed independently by Parliament took it upon himself to reject my application which was addressed to the Court and refused a jury trial** (*see E.C.H.R., 26 October 1984, De Cubber v. Belgium, Publ. Court, Series A, vol. 86, pp. 13-14, § 24*).

185. At the trial on June 18th 2003, before the Applicant could make his presentation, Judge Dawson had already agreed with the Court Official and further **refused the right to address the Court**. These fraudulent judgements obviously do not transpire any confidence in the judicial system and the judge sitting did not offer any guarantees sufficient to exclude **any legitimate doubt I have that my case will not heard in a fair and proper manner**. The Human Rights Act very clearly states that any hearing under Article 6 must be **fair and impartial**. I believe that the decisions taken by the Court manager and the DJ Dawson **without being given the opportunity to put the case** amounts to gross violation of human rights. In Ocalan v Turkey 2003 (*Application No. 46221/99*) the Court reiterated that under the principle of equality and arms one of the features of a fair trial is that "**each party must be afforded a reasonable opportunity to present his case under conditions which do not place him under a disadvantage vis a vis his or her opponent" - I was given none!.**

186. The Applicant once again wrote to the Court stating that he requested that the final hearing to be postponed as the judicial review was outstanding. Once again although the **application was made to the Court, the decision was taken by a civil servant and it was refused without giving a chance to address the Court**. The Court manager replied by letter stating that the hearing would

go ahead and if felt that it was unfair, to appeal the matter after the event.

187. District Judge Dawson on September 4th 2003 agreed with the court official and refused to postpone on the grounds that if the Appicant won the judicial review, the High Court can order a re-hearing. The Applicant refused to take part in an unfair hearing and left the Court. The other grounds were that there had already been one adjournment and that the decision had already been made.

188. The Court (ECtHR) has also qualified the importance of independence and impartiality and now requires that **judges do not have prejudicial** connections to, or views about, any party to a dispute, either because of involvement in a previous stage of the dispute, or because of a personal pecuniary connection to a party or **issues involved in the dispute**. [*See Daktaras v Lithuania (42095/98 of 10 October 2000*)].The Court held that a tribunal must be impartial from an objective view point – that is, it **must offer sufficient guarantees to exclude any legitimate doubt as to its impartiality**. **Judges must similarly be seen to be independent and impartial**. *[Delcourt v Belgium (1970), 1 EHRR 355, paragraph 31*]. The partiality of the judiciary is at question here and hence they request that the matter be judged by my peers

189. The argument used by the magistrate court to refuse my application is that under the present legislation schedule 22 (2) Magistrates Court Act 1980 the Court has no power to order a jury trial and the District Judge was not empowered to transfer my case. My offence is “triable either way” offence by operation of s 22 of the Magistrates’ Court Act 1980.

190. The Court has the discretion and it would be prudent that discretion is used in a matter of General Public Interest. Precedence can be seen in R v St Helens Justice ex-parte McClorie (1998), 78 Cr App Rep 1, which involved breaking a padlock and damaging a wrist watch (£5 and £15 respectively), the accused was allowed to have a jury trial after an appeal and the judge stated both offences were triable either-way. The accused was found guilty.

191. More recently, in Madeley v Regina 2001(Unreported), the accused was charged with taking £100 worth of wines without paying was tried by jury and found innocent. **Value is not relevant in these cases.**

192. In R v Bristol Magistrates Court ex parte E 22nd June 1998: 'For the purposes of s(1)4 of the 1981 Act, the mere fact that a completed offence had to be proceeded with 'as if ' it were triable only summarily, did not mean that it was in law a summary offence. On the contrary, s.17 of the 1980 Act expressly provided that the offence of criminal damage should be triable either way, and the sidenote to s 22 itself referred to the scheduled offences as offences triable either way. My offence is similarly triable either way.

193. Selection of the mode of trial must take place before any evidence is called and in the presence of the accused (s. 18(2) Magistrates Court Act 1980). Whilst the three of us accused were present in **Court, at no stage did the Judge or any other advise us of the decision being made or inform us of our right to put our case on the issue of mode of trial**, we were only asked to plead. I was not legally represented and the decision was made to which I never consented. Section 22(6) states 'if the accused consents to summary trial, the proceedings continue accordingly. If he does not, the normal mode of trial procedure is followed.' By definition, all offences of criminal damage remain indictable offences, no matter that they may be triable only summarily.

194. The standards contained in Article 6 of the Convention and their implications for judicial independence and impartiality, and appointment processes have been considered by the Court itself (ECtHR). In Bryan v United Kingdom the Court set out several principles to be taken into account in establishing the independence of the judiciary, including the manner of appointment of its members and their term of office, **the existence of guarantees against outside pressures, and whether the body presents the appearance of independence** [*Bryan v United Kingdom (1995) 21 EHRR 272, paragraph 37*].The Court distilled these elements from previous judgments in the *Le Compte,Van Leuven and De Meyere v Belgium (1982) 4 EHHR 1, paragraphs 55 and 57; Piersack v Beligum (1983) 5 EHRR 169, paragraph 27; Delcourt v. Belgium (1970) 1 EHRR 355, paragraph 31*. **In family law, in Secret Courts, the Courts and CAFCASS have shown open hostility towards children, fathers and grand parents**.

195. ECtHR in Werener v Poland (*Application no. 26760/95*) 15 November 2001, recalls that there are two tests for assessing whether a tribunal is impartial within the meaning of Article 6 § 1: the first consists in **seeking to determine the personal conviction of a particular judge in a given case and the second in ascertaining whether the judge offered guarantees sufficient to exclude any legitimate doubt in this respect** (see, among other authorities, the *Gautrin and Others v.*

France judgment of 20 May 1998, Reports 1998-III, pp. 1030-1031, § 58). When applied to a body sitting as a bench, it means determining whether, quite apart from the personal conduct of any of the members of that body, there are ascertainable facts, which may raise doubts as to its impartiality.

196. In **this respect even appearances may be of some importance**. It follows that when it is being decided whether in a given case there is a legitimate reason to fear that a particular body lacks impartiality, the standpoint of those claiming that it is not impartial is important but not decisive. **What is decisive is whether the fear can be held to be objectively justified** (see the *Gautrin and Others judgment cited above, loc. cit.; Morel v. France, no. 34130/96, §§ 40-42*). In this case the court manager was clearly biased and acted without any authority. The judge in endorsing the decision of the Court Manager and refusing me the right to address that Court is a biased judge clearly failing the two tests identified by ECtHR.

197. In *P, C & S v UK (56547/2000*) the Court stressed the importance of ensuring **the appearance of fair administration of justice and further stated that a party in civil proceedings must be able to participate effectively** inter alia by being able to put effective argument in support of his or her claim [*see also McVicar v UK (2002, §§50 -51*)]. The Applicant's experience shows that neither the legal services manager who took upon himself to make decisions without giving any opportunity to put forward the case in refusing a jury trial and that of DJ Dawson who agreed and refused any right to address the court are in breach of ECtHR precedence.

198. The Appeal was made initially to the Crown Court. I was unaware that the Magistrates Court had to receive the Application first as procedure dictates. The Court allowed the Appeal to go ahead out of time.

199. The Crown Court Appeal had two direction's hearings on December 5th 2003 when the witness statements were requested and the Court and the Crown had full knowledge of the contents of the witness statements from prior to January 15th 2004 as the Court had requested for the Direction's hearing on February 6th 2004.

200. On February 6th 2004 the Applicant was humiliated having to sit in the box when representing himself, was not allowed his legal advisor Dr. Badsha near him and had to communicate with him in sign language!

201. The Judge sitting set the case down for four days with two of the witnesses to be heard on the first day. The CPS did not object and agreed. **Direction's hearings were the appropriate place to examine any argument against the witnesses attendance to save Court costs and time as well as that of the witnesses as is the obligation they have put in writing to me**.

202. On the first day of the hearing it was noted that the Court had booked four cases to be heard, and even a case for the afternoon session. Clearly the Court had not expected to have a four-day hearing as they had stated in writing and in the transcript of the hearing, the Judge stated on page 4 para 18 'it is listed for four days.'

203. This was untrue. There were other hearings already booked and I feared a kangaroo Court from the outset.

204. It is quite clear that the Judge's notes show the hearing had been set for the four days and the witnesses had been agreed. The Judge would not have set the hearing for four days without full knowledge of the witnesses who would be giving evidence and as both the Judge and the Crown had been fully aware.

205. Whilst the Applicant was constantly reminded about wasting Court time, the Crown Prosecution Service did not object to the witnesses when they had the statements well in advance and did not do so on February 6th 2004 which would have been the appropriate time to do so.

206. The Applicant had been asked on February 6th 2004 to arrange for the thirty witnesses to appear over the four days according to their time constraints and as the judge had clearly stated would be the Applicant's responsibility. The refusal of the thirty witnesses on the first day of an alleged four-day hearing was nothing more than a kangaroo Court.

207. The Court was made fully aware in housekeeping points that the painting of the door was only an act to draw attention to the Public of what is going on (page 7 of transcript of the hearing para 26/27), a human rights defence (page 6 para 27-29), the Applicant's belief that it was not criminal damage (page 8 para 3).

208. Counsel for the State Miss Hayes, only argued the witnesses were irrelevant on trivial grounds and without knowing my defence. She also tried to argue that the judge has to take into account the interests of the prosecution as well as the defence (page 10 of the transcript), that family proceedings should not referred to in Public (page 11) and did not muster an argument against sections 6 and 7 of the Human rights Act 1998 (page11).

209. The Applicant disabused the Judge of the arguments (page 12 para 24 to page 13 para 10), yet the Judge failed to take into account the arguments under Human Rights, the fact that it was not criminal damage and that his witnesses were essential to his defence which the Applicant was under a duty to disclose in housekeeping points being a litigant-in-person against the full weight of the State. **It is not for the litigant-in-person to disclose his defence under housekeeping points as there is no statutory duty to do so and neither is it for the Judge to decide what his defence may be**.

210. In Re S (FC) In Re S and Others In Re W and Others (First Appeal)(FC) In Re W and Others (Second Appeal) (Conjoined Appeals) ON 14 MARCH 2002 [2002] UKHL 10:

Sections 7 and 8 of the Human Rights Act

> 45. Sections 7 and 8 of the Human Rights Act have conferred extended powers on the courts. Section 6 makes it unlawful for a public authority to act in a way, which is incompatible with a Convention right. Section 7 enables victims of conduct made unlawful by section 6 to bring court proceedings against the public authority in question. Section 8 spells out, in wide terms, the relief a court may grant in those proceedings. The court may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate. Thus, if a [Public Authority] conducts itself in a manner which infringes the article 8 rights of a parent or child, the court may grant appropriate relief on the application of a victim of the unlawful act.

1. 61. Where, then, does that leave the matter so far as English law is concerned? The domestic counterpart to article 13 is sections 7 and 8 of the Human Rights Act, read in conjunction with section 6. This domestic counterpart to article 13 takes a different form from article 13 itself. Unlike article 13,

which declares a right **('Everyone whose rights … are violated shall have an effective remedy'**), **sections 7 and 8 provide a remedy. Article 13 guarantees the availability at the national level of an effective remedy to enforce the substance of Convention rights. Sections 7 and 8 seek to provide that remedy in this country. The object of these sections is to provide in English law the very remedy article 13 declares is the entitlement of everyone whose rights are violated.**

211. The Court of Appeal should have the jurisdiction to determine this matter of the refusal of 30 witnesses in my Appeal against refusal of leave to Apply for judicial review. **A purely administrative decision** although arising from a criminal matter.

212. In Tsai v Woodworth, judgement delivered November 23rd and reported in the Times on November 30th 2003, the Court of Appeal stated ‘‘There had been considerable debate in recent years about the exercise of judicial discretion at first instance, and the circumstances in which the Court of Appeal could disturb the exercise of discretion. In respect of the exercise of a judge’s discretion, one should go back to the locus classicus: Evans v Bartlam where Lord Atkin said at page 480;

> ‘***Appellate jurisdiction is always statutory: there is in the statute no restriction upon the jurisdiction of the Court of Appeal: and while the appellate court in the exercise of its appellate power is in no doubt entirely justified in saying that normally it will not interfere with the exercise of the judge’s discretion except on grounds of law, yet if it sees on other grounds the decision will result in injustice being done it has both the power and the duty to remedy it.’***

213. In JJ v Netherlands Judgement of ECtHr dated 27th march 1998 llHRL 22 the Court held that ‘the fact that both J’s appeal on points of law to the Supreme Court and that the latter’s decision was limited to a **preliminary question of a procedural nature could not suffice to find article 6.1 inapplicable**.’

214. In any event a person charged under criminal law should have equal or greater protection than in a civil matter. This is not the case in the UK.

215. The European Court of Human Rights defines criminal matters differently to the UK, whereby the degree of the punishment is the merit for determination rather than the State defined Statute system behind it.

216. If the Court of Appeal and the House of Lords does not have jurisdiction then there is no

avenue for this matter to be heard where a matter of law of general public importance is not involved.

217. The incompatibility of the law with article 6 is in my submission a point of law of general public importance, yet the House of Lords chose not to act upon it.

218. Under article 6.I have the right not only to a fair hearing including effective redress, equality of arms and the rights under article 6 which the European Convention on Human Rights entitles and is enshrined in the Human Rights Act 1998.

219. The House of Lords and the Court of Appeal have refused jurisdiction to hear my Appeal. The Appeal is on an administrative point of law of a procedural nature.

220. The Court of Appeal had jurisdiction to hear such an Appeal and set precedent in R (ARU) v Chief Constable of Merseyside CA Waller, Longmore and Maurice Kay LJ 30-1-04 where it was stated that ''**Elias J's judgement was for practical purposes unapealable. That situation would be regrettable...where a High Court judgement was afflicted by legal error but there was no point of public importance raised**.''

221. Thus the Court has admitted that where there was legal error but no point of law of public importance or the judge erred, was biased etc there is no Appeal where the review in the High Court is from a criminal cause.

222. In the case of R (Jones and others) v Ceredigan County Council Times Law reports September 16th 2005, Judgement July 28th 2005, the dissenting Judge LJ Waller stated 'the policy behind the leapfrog provision was to cut out one layer of Appeals.' It is clear that public policy is behind the refusal to provide effective redress and respect the article 6 rights of those charged of a crime.

223. The laws and issues raised before the Court are very clear laws relating to the Civil and Human Rights in this Country which are already well-known as the Court has admitted but this is a case in the general public interest of civil disobedience for publicity on the serious issues raised and basic law, natural law and Human Rights are ignored.

224. The fundamental principal of English law clearly gives considerable weight that an appellant has the fundamental right to present his or her defence in court. **This has been further re-enforced by HRA (1998), Arts 3, 6, 14 and 17, and also under article-13 ECtHR.**

225. It should not be for the Court to determine what is relevant to the matter when the Court did not know what defence was to be raised and as a litigant-in-person I am not obliged to provide either a skeleton argument or my defence in advance. I am entitled to adversarial proceedings under article 6 ECHR and was not going to expose the full defence in Housekeeping points.

226. The witnesses were are intended to testify to the fact that the action of painting the door

was **as a result of, and at the request of, all these fathers, grandparents and young adults and the need to draw public attention to the daily injustices and violations of human rights that occur in the closed family courts; resulting in the deprivation of family life, financial ruin and the care and attention of loving families**.

227. It was for these reasons that the Applicant and others undertook the task. The painting of the door purple was an instance of civil protest, a demonstration of expression of free speech that freedom should be granted to those whose only desire is to maintain a loving relationship with their children, parents and grandparents.

228. **It remains essential for the court to establish the motive and reasons for the painting of the door purple before the court can proceed in its determination of whether the act was criminal as charged**. This is simply because others and the Applicant may have been under threat, or undue pressure or for many other reasons coerced against our will into performance of the said criminal act. Only by listening to the witnesses can the truth be revealed.

229. On the other hand the witnesses might even deny their involvement in this action and hold the Applicant solely responsible. All are essential factors that the Court needs to take into account in its determination.

230. It is imperative that the witnesses are heard in order to justify the mens rea. Denial of this, is denial of a fair hearing – the right as set out in the European Convention on Human rights and article 6 HRA 1998.

231. Only after this is achieved, can the court proceed to determine whether under the circumstances the painting of the door is a criminal act as charged or a form of freedom of expression when there is no other way of raising these issues to the public attention.

232. The applicant contends that the act was not criminal for the following reasons, yet to date the Applicant has been unable to have the matter fairly heard:

- The painting did not reduce the value of the door. It had been improved compared to the previous state it was in.

- There was no physical damage to the property.

- It continued to function as a door. Neither is there any Authority or case law to determine that painting Government doors without causing any inconvenience is a criminal act.

- In considering the dilapidated state of the door at the outset, and when CAFCASS are complaining of insufficient funds, this would add to its value.

- Crown Gloss Royal paint and brand new paintbrushes were specifically bought for this renovation.

- The door was carefully painted but we were only prevented from finishing the job because we were arrested.

- Purple was chosen as it is the international colour of equality and the door next door belonging to the National Probation service was also purple.

233. Throughout the entire painting episode great care was taken and with professionalism. It was most unfortunate we were not allowed to complete the work in such an action not only wasting our money and time but also public money and Police time in arresting us.

234. When a road in Turkey was painted red in protest at the Iraq invasion, the Turkish CPS refused to prosecute under article 10 of the ECHR convention. This implies that there is more respect for Human Rights in Turkey than in the UK.

235. For the Crown Court to go on record, in the decision of refusing the witnesses, and **to state that they accepted the Applicant's belief that in the family courts the judges are biased and partial, and also that on paper it was not difficult to believe** while denying the appearance of the witnesses diverted from the reason and purpose for the witnesses to appear and **brings the Administration of justice into disrepute.**

236. In the case of Niderhost-huber v Switzerland 27th january 1997 ECtHR it was stated in paragraph 28 that the requirements derived from the right to adversarial proceedings are the same in both civil and criminal cases and in paragraph 29 that '**Only the parties to a dispute may properly decide whether this is the case; it is for them to say whether or not a document calls for their comments**. What is particularly at stake here is litigant's confidence in the workings of justice, which is based on inter-alia, the knowledge that **they have had the opportunity to express their views on every document in the file**.' In the concurring opinion of Judge De Meyer it is stated that '**it is not at all certain that in this area contracting States enjoy greater latitude in civil cases than in the criminal sphere**.

237. These actions of the judge obviously do not transpire any confidence in the judicial system and the judge sitting did not offer any guarantees sufficient to exclude any legitimate doubt. The Human Rights Act very clearly states that any hearing under Article 6 must be fair and impartial.

238. ECtHR in Werener v Poland (Application no. 26760/95) 15 November 2001, recalls that there are two tests for assessing whether a tribunal is impartial within the meaning of Article 6 § 1: the first consists in seeking to determine the personal conviction of a particular judge in a given case and the second in **ascertaining whether the judge offered guarantees sufficient to exclude any legitimate doubt in this respect** (see, among other authorities, the Gautrin and Others v. France judgment of 20 May 1998, Reports 1998-III, pp. 1030-1031, § 58). When applied to a body sitting as a

bench, it means determining whether, quite **apart from the personal conduct of any of the members of that body, there are ascertainable facts, which may raise doubts as to its impartiality**.

239. In this respect even appearances may be of some importance. It follows that when it is being decided whether in a given case there is a legitimate reason to fear that a particular body lacks impartiality, the standpoint of those claiming that it is not impartial is important but not decisive. **What is decisive is whether the fear can be held to be objectively justified** (see the Gautrin and Others judgment cited above, loc. cit.; Morel v. France, no. 34130/96, §§ 40-42).

240. In this case the court manager was clearly biased and acted without any authority. The judge in endorsing the decision of the Court Manager and refusing me the right to address that Court is a biased judge clearly failing the two tests identified by ECtHR. I submit these are violations of article 6.1

241. Judge Goodin refused the witnesses without having disclosed my defence, taken into account the Human Rights factor or the fact that the Applicant does not see that he has committed any criminal damage.

242. The Judicial review was heard on Tuesday 5th October 2004 by Lord Justice Kenne and Mrs. Justice Hallett. The behaviour of the judges with Mrs. Justice Hallet leading the judicial review was to ignore relevant facts, to intimidate the Applicant and to hostilely treat a litigant-in-person preventing a fair hearing of the matter.

243. An up-dated skeleton argument had been served on the Court on October 4th 2004 the day before with an in-depth argument and based on all that was to be presented to the Court.

244. On opening, the Judges refused to allow the Applicant to take them through the argument and to the relevant material. They stated that they had read the argument and that he had to give them his best points when everything that he wished to say was in the skeleton argument. He could not take the best points out because every time he tried the Judges berated him for doing so including when referring to the law.

245. The Judges paid scant attention to the arguments or the evidence and the fact that the Applicant had the legitimate expectation that the witnesses would be heard when the State had put no arguments against them being heard on February 6th 2004 after having had the statements in their possession for several weeks.

246. The refusal by the Court of the review was to state that it was the remit of the Judge to refuse irrelevant evidence yet the Court did not know what the full defence would be and therefore could not determine whether the evidence was relevant or not, and we were only in housekeeping points.

247. The issue of the witnesses was a matter brought up Judge Goodin and not by my opponent. On page 3 of the transcript of the proceedings the Judges said ' in para 4-5 'we have not seen a witness statement.' On page 5 para 24-25 the Applicant stated that 'the **case centres on the fact** that I sincerely believe the Judiciary is unfair when hearing family cases.' Centering on is not the sole issue or even the defence to be raised but was used as a red herring by the Court to remove the embarrassing case before them.

248. This was repeated by Lord justice keene in para 5 and 6 of his judgement.

249. In para 7 he refers to the Direction's hearing on February 6th 2004 but ignores the

fact that that was the second Direction's hearing and the Court and the Crown were well aware of the statements from the witnesses from prior to January 15th 2004.

250. LJ Keene also stated in para 9 'If evidence is inadmissible it is not admissible and it matters not what the prosecution say about it. But he failed to recognise that the Judge cannot himself raise the issue of his own volition since my opponent is the State and it was for them to do so. The factual ground given by the judge was not raised by the defendants. A judge has no locus standi to raise the defence of fact for a party! He thus became the Defendant! And, he ceased to be a judge! In other words, he was, in law, a biased judge(See: Langborger v. Sweden (1990) 12 EHRR 416 at para 32).

251. Even as a Litigant in Person I have the right to a fair hearing see [Re: O'Connell & Others [2005] EWHC Civ 759] paras 50 – 56 - In particular paragraph 54 which states – "two obvious points must be made. The first is that litigants in person are as entitled to a fair hearing as any other litigant. *And Lord Justice Wall said at paragraph 55 of his judgment: "…any judge hearing a litigant in person is under a particular obligation to remain courteous and* ***to ensure that the litigant in person has a full and fair hearing****."*

252. I am afforded the right to review of the actions of a Public Authority under the Human Rights Act 1998 of the biased, unlawful and inadequate nature of the decision making process of any Public Authority which includes the Courts.

253. I have the right to challenge that decision and the appropriate route is now to the European Court of Human Rights since the UK Courts have ignored my right to effective redress and to a fair hearing.

254. Under the European Convention of Human Rights and the Human Rights Act 1998 (HRA 1998) and in particular Section 7 (1b) clearly the right to Appeal is afforded against an unjust judgement as in this case.

255. Section 7 (1b) of HRA 1998 clearly states :- person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by section 6(1) may:- bring proceedings against the authority under this Act in the appropriate court or tribunal, or **rely on the Convention right or rights concerned in any legal proceedings, but only if he is (or would be) a victim of the unlawful act.**

256. In subsection (1)(a) "appropriate court or tribunal" means such court or tribunal as may be determined in accordance with rules; and proceedings against an authority include a counterclaim or similar proceeding and (3) If the proceedings are brought on an application for judicial review, **the applicant is to be taken to have a sufficient interest in relation to the unlawful act only if he is, or would be, a victim of that act**.

> A review is the last remedy of Administrative decisions; (6) In subsection (1)(b) "legal proceedings" includes- (b) an appeal against the decision of a court or tribunal.
>
> s7. (1) In relation to any act (or proposed act) of a public authority which the court finds is (or would be) unlawful, it may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate.

(6) In this section- "court" includes a tribunal; "damages" means damages for an unlawful act of a public authority; and "unlawful" means unlawful under section 6(1).

s6. - (1) **It is unlawful for a public authority to act in a way which is incompatible with a Convention right**.

In this section "public authority" includes- (a) **a court or tribunal, and (b) any person certain of whose functions are functions of a public nature**, but does not include either House of Parliament or a person exercising functions in connection with proceedings in Parliament.

(5) In relation to a particular act, a person is not a public authority by virtue only of subsection (3)(b) if the nature of the act is private.

It is quite clear in Human Rights law that Parliament intended such remedy to the Court of Appeal.

257. In Ashby v White 14th January 1704 Holt CJ said ‘‘**If the Plaintiff has a right, he must of necessity have a means to vindicate and maintain it, and a remedy if he is injured in the exercise or enjoyment of it**; and indeed it is a vain thing to imagine a right without a remedy, for **want of right and want of remedy are reciprocal.’’**

258. In *A and others v sec of State for Home Dept* (see above) in paragraph 90 it states ‘‘**Under the 1998 Act, the Courts still cannot say that an Act of Parliament is invalid. But they can declare that it is incompatible with the human rights of persons in this country.**’’

259. It is quite clear that under the European Convention article 6 and Human Rights Act 1998 I have the right to Appeal a refusal of judicial review of an Act by a Court as a Public Authority and must equally have a right of Appeal.

260. In the case of *Magill v Porter 2001 UKHL 67* paragraph 81 it states ‘‘it has now been held in *R v Kansal (No 2) [2001] UKHL 62* that section 7(1)(b) of the 1998 Act **applies to acts of Courts and tribunals in the same way as it applies to acts of other public Authorities**.

261. In *A (FC) and Others (FC) v Secretary of State for Home Dept [2004] UKHL 56*, 16th December 2004 in paragraph 41 that ‘‘**the Court’s role under the 1998 Act is as the guardian of human rights. It cannot abdicate this responsibility**.’’ And ‘‘But judges nowadays have no alternative but to apply the Human Rights Act 1998.’’

262. Further it was said in this case at paragraph 42 - “it is particularly inappropriate in a case such as the present in which **Parliament has expressly legislated in section 6 of the 1998 Act to render unlawful any act of a public authority, including a court, incompatible with a Convention right**, has required courts (in section 2) to take account of relevant Strasbourg jurisprudence, has (in section 3) required courts, so far as possible to give effect to Convention rights and has conferred a

right of appeal on derogation issues. The effect is not, of course, to override the sovereign legislative authority of the Queen in Parliament, since if primary legislation is unaffected (section 4(6) and the remedy lies with the appropriate minister (section 10), who is answerable to Parliament. The 1998 Act gives the courts a very specific, wholly democratic mandate. As Professor Jowell has put it – **the courts are charged by Parliament with delineating the boundaries of a rights-based democracy** (Judicial Deference: servility, civility or institutional capacity [2003] PL 592, 597)".

263. In paragraph 80 of the same judgement it states that ''**the duty of the courts is to check that legislation and ministerial decisions do not overlook the human rights of persons adversely affected**.''…''The Courts will intervene only when it is apparent that, in balancing the various considerations involved, the primary decision maker must have given insufficient weight to the human rights factor.''

264. The UK is obliged to respect the Convention of the Human Rights Act and ECHR as follows:

265. Section 2 for interpretation of Convention rights, and to '**take into account' any judgement, decision, declaration or advisory opinion of the ECHR** (Aston Cantlow and Wilmcote with Billesley Parachial Church Council v Wallbank, [2001] 3 WLR 1323.

266. Section 3 of the HRA 1998 to interpretation of legislation by the reading down of express language in a statute but also the implication of provisions (R v A (No.2) [2001] 2 WLR 1546).

267. European Community law provides an important method whereby the terms of the ECHR and the rights it confers may be invoked before a national court where the issue falls within the scope of E.C. law. This is because, within its scope, Community law takes precedence over inconsistent national law, (The European Communities Act 1972, s. 2. Provides legal effect to this within the U.K).

268. For judicial acceptance of this, see R v. Secretary of State for Transport, ex-parte Factortame Ltd [1990] 2 A.C. 85; R v. Secretary of State for Employment, ex-parte EOC [1995] 1 A.C. 1; R v. Secretary of State for the Environment, ex-parte Seymour- Smith [1995] I.R.L.R. 464); and **it is well established that respect for fundamental rights including the Convention rights "forms an integral part of the general principles of Community law protected by the Court of Justice**". (Case 11/70 International Haandelgesellschaft v. Einfurhr-und Vorratsstelle Getreide [1970] E.C.R. 1125, 1134.. See Joint Declaration of Community Institutions of April 5, 1977 O.J. 1977, C-103/1).

269. This principle is now given legislative force by Article 6(2) of the Treaty of the European Union, which provides that "**the Union shall respect fundamental rights as guaranteed by the European Convention for the Protection of Fundamental Rights and Freedoms. . . and as they result from the constitutional traditions common to the Member States as general principles of Community law**". (The Treaty of Amsterdam made this provision justiciable by amending TEU Article 46 to bring Article 6(2) within the ECJ's jurisdiction).

270. **Everyone has the right to freedom of expression.** This right shall include freedom to

hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

271. The exercise of these freedoms, since it carries with it duties and responsibilities, **may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society ….. . for maintaining the authority and impartiality of the judiciary**." Kyprianou v. Cyprus (73797/01) [2004] ECHR 43 (27 January 2004).

272. I also refer the Court to the case of Ocalan v Turkey 2003 (Application No. 46221/99) the Court reiterated that under the principle of equality and arms one of the features of a fair trial is that "**each party must be afforded a reasonable opportunity to present his case under conditions which do not place him under a disadvantage vis a vis his or her opponent**."

273. The same clearly applies to decisions and acts of the Courts as Public Authorities. My presence in Court does not sufficiently address my human rights when as is evidenced in this case no proper and reasoned consideration was given to the submissions both in writing and orally.

274. Section 1(1) of the Administration of Justice Act 1960, as amended by section 63 of the Access to Justice Act 1999, **provided for an Appeal to the House of Lords from a decision of the High Court in a criminal cause or matter**. The grounds for such an Appeal to the House of Lords, **including where the issues raised a point of Public importance, were contained in section 1 (2) of the 1960 Act.**

275. Section 18(1) of the Supreme Court Act 1981 **provided that no Appeal lay to the Court of Appeal, except as provided by the 1960 Act, from any judgement of the High Court in any criminal cause or matter**.

276. Judicial review proceedings are civil under Civil Proceedings rules rule Part 54, the decision in this case is an Administrative matter.

277. Notwithstanding the cause or matter before the Court, the conditions upon which an Appeal to the Court of Appeal would be accepted when contrasted with a petition to the House of Lords are **sufficiently diverse as to warrant a lack of access to justice if the matter is from a criminal cause, with no Appeal on a point of law that is not viewed as being of general public importance or of being wrong in fact**.

278. A petition to the House of Lords on direct petition from the High Court (leapfrog) in a criminal case may be refused which would be accepted in the Court of Appeal in a civil case. Simply because this is a judicial review from a criminal matter should not block the right to an Appeal. **Indeed the Human Rights Act specifically gives the right to a review/ Appeal**.

279. In this case, the High Court refused me permission to apply to the House of Lords, the Court of Appeal refused jurisdiction and the House of Lords also refused jurisdiction to hear the matter

stating that the Application is inadmissible.

280. The law is insufficiently clear on this matter when contrasted with civil matters which have the right to an Appeal direct to the Court of Appeal raises an anomaly within the law and **a lack of access to the Court and to justice for those charged with a criminal offence.**

281. If the Judicial review had been accepted as having locus standi and neither the defendant or the Court argued this point at all then there **must be an Appeal from refusal of leave to Apply for judicial review to the Court of Appeal or to the House of Lords on this point or the law is flawed and violates article 6 given that there is such a right in civil and family law.**

282. I therefore submit for the above reasons that there have been violations of article 6.

283. For the above reasons I submit the routes of Appeal as given in the Administration of Justice Act 1960, Section 54 of the Access to Justice Act 1999, House of Lords Direction 4.3 Crminal amongst other are incompatible with article 6.

International treaties (beyond Europe)

284. International treaty law recognises **the right to have one's rights and obligations heard before and determined by an independent and impartial tribunal**. Article 14(1) of the International Covenant on Civil and Political Rights (ICCPR) similarly underscores the right to a hearing before an **independent judiciary**:

285. **..the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law**…

286. The ICCPR makes explicit the requirement of '**competence'**, as well as those of **independence and impartiality**. Article 14 implies an obligation on States to create the conditions for judges to adjudicate independently.

International declarations and resolutions

287. Article 10 of the Universal Declaration in Human Rights (UDHR) refers to the importance

of judicial independence:

288. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

289. The United Nations Basic Principles on the Independence of the Judiciary were endorsed by the United Nations General Assembly in 1985. Principle 1 provides:

290. The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.

291. Furthermore, Principle 10 of the resolution holds: "Persons selected for judicial office shall be individuals of **integrity and ability** with appropriate training or qualifications in law. Any method of judicial selection shall safeguard against judicial appointments for improper motives".

292. Article 21(1) of the Convention establishes the formal criteria for appointments to the Court: The judges shall be of **high moral character** and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognised competence.

293. The obligation to respect human rights by the government is defined in Article 1 of the European Convention for the protection of Human Rights and fundamental freedoms which states; 'The high contracting parties shall secure to everyone within their jurisdiction the rights and freedoms defined in section 1 of this Convention.'

294. It is the responsibility of the UK Government to ensure the Judiciary are independent and impartial. The Lord Chancellor and now the Head of the department of Constitutional Affairs are not independent of the Government. This is increasingly a barrier tio effective justice in the UK. I plainly have not been given the right to have my case heard before an independent and impartial tribunal as is my right. For all the reasons given above;

295. I submit from all of the above there have been violations of article 1 taking into account article 6 in that the UK Judiciary are not acting in an independent and impartial manner and cost/ court time is the major factor influencing the rendering of judicial decision rather than the object of the Courts and the judicial oath to deliver Justice, mercy and right.

III Statement of alleged violations

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Article 10 of the European Convention of Human Rights

296. This states that 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions ...and impart information and ideas without interference by public authority. 2. The exercise of these freedoms since it carries with it duties and responsibilities may be subject to such formalities, conditions, restrictions or penalties as are described by law and are necessary in a democratic society, in the interests of national security, territorial integrity, or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

297. **Everyone has the right to freedom of expression.** This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

298. The exercise of these freedoms, since it carries with it duties and responsibilities, **may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society ….. . for maintaining the authority and impartiality of the judiciary**." Kyprianou v. Cyprus (73797/01) [2004] ECHR 43 (27 January 2004).

299. Whilst The Crown Prosecution Service refuse to prosecute men in Turkey for painting a road red in protest at the Iraq invasion. A matter now shown to be an unlawful war. The Applicant is being pursued for a similar act in expressing his Human Rights at the bias, fraud and judicial impartiality in the UK closed Family Courts.

300. There was no question of the Act being against the interests of National Security, territorial integrity, or public safety.

301. Neither was there any question of there being any disorder, the female PC was happily smiling when arresting us. There was no issue of the disclosure of information received in confidence or of protection of health or morals, on the contrary we were seeking publicity to protect the public, their health, and their morals.

302. We were protecting the authority and impartiality of the judiciary since by the actions of those concerned they were not acting impartiality and have no authority to act contrary to article 6 ECHR or their Judicial oaths.

303. History demonstrates that fighting for rights, which are considered unjustifiable within a given legal structure, invariably starts outside of the law using mechanisms such as revolutions or campaigns on specific issues. St. Augustine put it, "all human governments are fatally defective and thus *merit* no allegiance". Moreover, since the positive laws that govern human society are merely

attempts to represent the human law that is derivative from lex natura—engrafted upon human nature —and in conformity with the lex aeterna, their "legitimacy" is entirely a question of the extent to which they capture the **existing reality that they are designed to represent the people – The experiences of fathers and their wider family show that guardians (judges) of the present laws do not represent them or their children**.

304. Nelson Mandela, Martin Luther King and Mahatma Gandhi are just three names that stood against unjust law and today are most respected statesmen. The most amazing example of unjust law is that of Sir John Popham (1531-1607), who broke the law in his younger days, mixed with wild companions and took purses from rich highway travellers but **rose to be Lord Justice of England**.

305. The Applicant has been forced into direct action as a result of institutionalised denial of justice to fathers, children and grandparents by the courts and the other state institutions. Legal history shows all civil and political rights leaders whom the UK judiciary has in the past "**labelled criminals"** are today's leaders. Northern Ireland leaders are the latest examples.

306. The Applicant is a person of good sincere character with both a mature and responsible attitude towards life. Clear evidence of this is his employment as a secondary school teacher trained in science, special needs and anger management. He has never been convicted of a crime, is not a violent man (but was a victim) and yet has been driven to being in this situation through desperation at the lack of impartiality accorded by the judicial system.

307. In ***Cox v Riley (1986) QBD*** the court defined 'damage' as 'injury impairing value or usefulness' and is a question of fact and degree in each case - Held. I took great **care but was only stopped from finishing the job by the Police** (using new brushes and Crown Royal paint), painting the door purple which had old blue, dirty paint. More importantly it matched all other doors of the same building. Not only by my actions was the **value of the door enhanced** but it did **not interfere with the usefulness** - in another word the door was not physically damaged (*also see : . Morphitis v Salmon (1990) QBD*).

308. It was the Applicant's honest belief *that the actions would result in bringing wrongdoings to public attention. In* ***Smith, R v [1974] CA*** the court held that provided that the belief is honestly held, **it**

is irrelevant whether or not it is a justifiable belief.

309. **In Jaggard *v Dickinson (1980) QBD* the court held** the correct test is what the defendant's actual state of belief was, not the state of belief that ought to have existed.

310. The Applicant has been able to maintain his own integrity despite undergoing years of emotional and traumatic stress at being separated from my own children as well as being badly treated by the judicial system. The Applicant reiterates that the only objective has been to receive a fair and impartial hearing which to date has been consistently denied and to ensure that the Public are made aware of the truth as to the actions of CAFCASS and the judiciary in secret Courts.

311. "I submit that an individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, **is in reality expressing the highest respect for the law**" (*Martin Luther King Jr. (1929 - 1968*)).

312. There was no crime when the act was one of expressing our human Rights and publicising criminal and unlawful acts by the State bodies and the unlawful acts of the judiciary.

313. There was no reason that we should have been arrested when we could have been left to finish off the task neatly or asked to return to do so and the door had neither been made unusable, or it's value reduced.

314. I therefore submit there has been a breach of article 10.1

III Statement of alleged violations

Violations of article 13

315. The House of Lords declined to allow my petition to be heard on July 1st 2005 after consideration by Lord Bingham of Cornhill, Lord Steyn, and lord brown of Eaton-under-Heywood. The grounds given were that the Application was inadmissible.

316. The Court of Appeal refused to hear the Appeal first in a letter dated 12th January 2005 that stated ''This is a criminal cause or matter. This Court has no jurisdiction'' and then in Court order C1/2004/2368 dated 23rd February 2005 on the grounds that the Court had already decided it had no jurisdiction to entertain the Claimant's Application, as this is a criminal cause or matter.

317. This leaves the High Court (Administrative Court) as the Supreme Court in determination of Appeals on Administrative points from the Crown Court with no right of Appeal where the matter is a criminal one except on a matter of law of general public importance which they themselves or the House of Lords determine.

318. Article 13 of the Convention protects our rights to an Effective Remedy-

> Article 13. Everyone whose rights and freedoms as set forth in this Convention are violated, shall have an effective remedy before a National Authority notwithstanding that the violation has been committed by persons acting in an Official Capacity.

319. If the judge erred in the Administrative Court there is no effective redress except to the European Court of Human Rights.

320. This is a violation of article 13 since it would imply that judges in the Administrative Court do not err and have not done so.

321. Appeals from the Family Court/ Civil division all have the right to Appeal to the Court of Appeal on the grounds of wrong in law or wrong in fact and/ or wrongful use of discretion.

322. The protection required for those in the Criminal Court should be greater than for those in the Civil Court given that the punishment to be meted out is much greater and more severe.

323. In the case of Niderhost-huber v Switzerland ECtHR 27th January 1997 it was stated in paragraph 28 that '**the requirements derived from the right to adversarial proceedings are the same in both civil and criminal cases**' and in the concurring opinion of Judge De Meyer it is stated that 'it is not at all certain that in this area contracting States enjoy greater latitude in civil cases than in the criminal sphere.

324. In this case quite clearly a litigant in the Administrative Court in a civil matter has greater rights for Appeal.

325. Appeals are won in the Court of Appeal against High Court/ Administrative Judges and there is no effective redress in the UK for those in the Criminal Court accused by the

State with it's greater resources and powers. If the Judge in the Administrative Court errs, and there is no matter of law of general public importance, there is no effective redress in the UK.

326. In R (ARU) v Chief Constable of Merseyside CA Waller, Longmore and Maurice Kay LJ 30-1-04; it was stated that ''Elias J's judgement was for practical purposes unapealable. **That situation would be regrettable...where a High Court judgement was afflicted by legal error but there was no point of public importance raised**.''

327. It was the Court of Appeal who determined that there is no remedy in that very case.

328. In the letter dated 13th April 2005 the Head of the Judicial Office of the House of Lords stated that section 54 of the access to justice Act 1999 put into statute law the long standing decision of the House of Lords of Lane & Esdaile [1891].

329. He is incorrect to state that the Court of Appeal had jurisdiction to consider the Appeal on it's merits since by their own decision in the letter dated 12th January 2005 they state they have no jurisdiction. This is consistent with the ruling in R (ARU) v Chief Constable of Merseyside CA Waller, Longmore and Maurice Kay LJ 30-1-04.

330. In Tsai v Woodworth, judgement delivered November 23rd and reported in the Times on November 30th 2003, the Court of Appeal stated ''There had been considerable debate in recent years about the exercise of judicial discretion at first instance, and the circumstances in which the Court of Appeal could disturb the exercise of discretion. In respect of the exercise of a judge's discretion, one should go back to the locus classicus: Evans v Bartlam where Lord Atkin said at page 480;

> '***Appellate jurisdiction is always statutory: there is in the statute no restriction upon the jurisdiction of the Court of Appeal: and while the appellate court in the exercise of its appellate power is in no doubt entirely justified in saying that normally it will not interfere with the exercise of the judge's discretion except on grounds of law, yet if it sees on other grounds the decision will result in injustice being done it has both the power and the duty to remedy it.'***

331. Clearly the Court of Appeal could and the Applicant would argue should have heard the case before them as a matter of effective redress and to respect the Applicant's rights under article 6.

332. The UK Government has failed to appreciate the effect of the Human Rights Act 1998 and in particular article 6.

333. The Applicant is afforded the right to review of the actions of a Public Authority under the Human Rights Act 1998 of the biased and inadequate nature of the decision making process of any Public Authority which includes the Courts.

334. The Applicant has the right to challenge that decision and the appropriate route is

now to the European Court of Human Rights since all avenues have been exhausted in the UK.

335. Under the European Convention of Human Rights and the Human Rights Act 1998 (HRA 1998) and in particular Section 7 (1b) clearly the right to Appeal is afforded against an unjust judgement as in this case.

336. Section 7 (1b) of HRA 1998 clearly states :- person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by section 6(1) may:- bring proceedings against the authority under this Act in the appropriate court or tribunal, or rely on the Convention right or rights concerned in any legal proceedings, but only if he is (or would be) a victim of the unlawful act.

337. In subsection (1)(a) "appropriate court or tribunal" means such court or tribunal as may be determined in accordance with rules; and proceedings against an authority include a counterclaim or similar proceeding and (3) If the proceedings are brought on an application for judicial review, the applicant is to be taken to have a sufficient interest in relation to the unlawful act only if he is, or would be, a victim of that act.

> A review is the last remedy of Administrative decisions; (6) In subsection (1)(b) "legal proceedings" includes- (b) an appeal against the decision of a court or tribunal.
>
> s7. (1) In relation to any act (or proposed act) of a public authority which the court finds is (or would be) unlawful, it may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate.
>
> (6) In this section- "court" includes a tribunal; "damages" means damages for an unlawful act of a public authority; and "unlawful" means unlawful under section 6(1).
>
> s6. - (1) It is unlawful for a public authority to act in a way which is incompatible with a Convention right.

338. In this section "public authority" includes- (a) a court or tribunal, and (b) any person certain of whose functions are functions of a public nature, but does not include either House of Parliament or a person exercising functions in connection with proceedings in Parliament.

339. (5) In relation to a particular act, a person is not a public authority by virtue only of subsection (3)(b) if the nature of the act is private.

340. It is quite clear in Human Rights law that Parliament intended such remedy to the Court of Appeal.

341. In *A and others v sec of State for Home Dept* (see above) in paragraph 90 it states ‘’Under the 1998 Act, the Courts still cannot say that an Act of Parliament is invalid. But they can declare that it is incompatible with the human rights of persons in this country.’’

342. It is quite clear that under the European Convention article 6 and Human Rights Act 1998 I have the right to Appeal a refusal of judicial review of an Act by a Court as a Public Authority and must equally have a right of Appeal equal to that at least of a person in a civil matter.

343. In the case of *Magill v Porter 2001 UKHL 67* paragraph 81 it states ‘’it has now been held in *R v Kansal (No 2) [2001] UKHL 62* that section 7(1)(b) of the 1998 Act applies to acts of Courts and tribunals in the same way as it applies to acts of other public Authorities.

344. In *A (FC) and Others (FC) v Secretary of State for Home Dept [2004] UKHL 56*, 16th December 2004 in paragraph 41 that ''the Court's role under the 1998 Act is as the guardian of human rights. It cannot abdicate this responsibility.'' And ''But judges nowadays have no alternative but to apply the Human Rights Act 1998.''

345. Further it was said in this case at paragraph 42 - "it is particularly inappropriate in a case such as the present in which Parliament has expressly legislated in section 6 of the 1998 Act to render unlawful any act of a public authority, including a court, incompatible with a Convention right, has required courts (in section 2) to take account of relevant Strasbourg jurisprudence, has (in section 3) required courts, so far as possible to give effect to Convention rights and has conferred a right of appeal on derogation issues. The effect is not, of course, to override the sovereign legislative authority of the Queen in Parliament, since if primary legislation is unaffected (section 4(6) and the remedy lies with the appropriate minister (section 10), who is answerable to Parliament. The 1998 Act gives the courts a very specific, wholly democratic mandate. As Professor Jowell has put it – the courts are charged by Parliament with delineating the boundaries of a rights-based democracy (Judicial Deference: servility, civility or institutional capacity [2003] PL 592, 597)".

346. In paragraph 80 of the same judgement it states that ''**the duty of the courts is to check that legislation and ministerial decisions do not overlook the human rights of persons adversely affected**.''…''The Courts will intervene only when it is apparent that, in balancing the various considerations involved, the primary decision maker must have given insufficient weight to the human rights factor.''

347. The UK Court is obliged to respect the Convention of the Human Rights Act and ECHR as follows:

348. Section 2 for interpretation of Convention rights, and to 'take into account' any judgement, decision, declaration or advisory opinion of the ECHR (Aston Cantlow and Wilmcote with Billesley Parachial Church Council v Wallbank, [2001] 3 WLR 1323.

349. Section 3 of the HRA 1998 to interpretation of legislation by the reading down of express language in a statute but also the implication of provisions (R v A (No.2) [2001] 2 WLR 1546).

350. European Community law provides an important method whereby the terms of the ECHR and the rights it confers may be invoked before a national court where the issue falls within the scope of E.C. law. This is because, within its scope, Community law takes precedence over inconsistent national law, (The European Communities Act 1972, s. 2. Provides legal effect to this within the U.K).

351. For judicial acceptance of this, see R v. Secretary of State for Transport, ex-parte Factortame Ltd [1990] 2 A.C. 85; R v. Secretary of State for Employment, ex-parte EOC [1995] 1 A.C. 1; R v. Secretary of State for the Environment, ex-parte Seymour- Smith [1995] I.R.L.R. 464); and it is well established that respect for fundamental rights including the Convention rights "forms an integral part of the general principles of Community law protected by the Court of Justice". (Case 11/70 International Haandelgesellschaft v. Einfurhr-und Vorratsstelle Getreide [1970] E.C.R. 1125, 1134.. See Joint Declaration of Community Institutions of April 5, 1977 O.J. 1977, C-103/1).

352. This principle is now given legislative force by Article 6(2) of the Treaty of the European Union, which provides that "the Union shall respect fundamental rights as guaranteed by the European Convention for the Protection of Fundamental Rights and

Freedoms. . . and as they result from the constitutional traditions common to the Member States as general principles of Community law". (The Treaty of Amsterdam made this provision justiciable by amending TEU Article 46 to bring Article 6(2) within the ECJ's jurisdiction).

353. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

354. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society ….. . for maintaining the authority and impartiality of the judiciary." Kyprianou v. Cyprus (73797/01) [2004] ECHR 43 (27 January 2004).

355. The Applicant also refers the Court to the case of Ocalan v Turkey 2003 (Application No. 46221/99) the Court reiterated that under the principle of equality and arms one of the features of a fair trial is that "each party must be afforded a reasonable opportunity to present his case under conditions which do not place him under a disadvantage vis a vis his or her opponent."

356. The same must also apply to decisions and acts of the Courts as Public Authorities.

357. Section 1(1) of the Administration of Justice Act 1960, as amended by section 63 of the Access to Justice Act 1999, provided for an Appeal to the House of Lords from a decision of the High Court in a criminal cause or matter. The grounds for such an Appeal to the House of Lords, including where the issues raised a point of Public importance, were contained in section 1 (2) of the 1960 Act.

358. Section 18(1) of the Supreme Court Act 1981 provided that no Appeal lay to the Court of Appeal, except as provided by the 1960 Act, from any judgement of the High Court in any criminal cause or matter.

359. Judicial review proceedings are civil under Civil Proceedings rules rule Part 54, the decision in this case is an Administrative matter although arising from a criminal matter.

360. Notwithstanding the cause or matter before the Court, the conditions upon which an Appeal to the Court of Appeal contrasted with a petition to the House of Lords are accepted are sufficiently diverse as to warrant a lack of access to justice as is clearly stated in R v Aru quoted above.

361. A petition to the House of Lords on direct petition from the High Court (leapfrog) may be refused which would be accepted in the Court of Appeal. Simply because this is a judicial review from a criminal matter should not block an Appeal and with the same rights as a person involved in civil proceedings.

362. There is no manner in which this matter can be examined in the UK given that both the Court of Appeal and the House of Lords have refused jurisdiction.

363. I therefore submit for the above reasons that there has been a violation of article 13 in that there is no effective redress for a decision of the Administrative Court when the matter arises from a criminal cause and there is not a point of law of general public importance this is contrary to article 6 and article 13.

III Statement of alleged violations: Article 17

364. Article 17 ~ The Prohibition of Abuse of Rights states:- Nothing in this Convention may be interpreted as implying for any State, Group, or Person, any right to engage in any activity aimed at the destruction of any of the Rights and freedoms set forth herein, or at their limitation to a greater extent than is provided for in the Convention.

365. The State and the Judiciary are treating heterosexual fathers as disposable and as walking wallets depriving us of our common law, natural law, and human rights. The State is carrying out acts of Gendercide. Men are second class citizens and their Human Rights are not being respected.

366. Violations of Articles 3, 6, 8 14 HRA 1998 and ECHR and Article 13 ECHR are commonplace in secret Courts reminiscent of the Diplock Courts in Northern Ireland and in the Star Chambers.

367. In A & D and B & E, the UK Court established requirements of Article 8 of the Human Rights Convention. Every one has the right to respect for his private and family life, his home and his correspondence. **There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others**…The court may interfere with the rights of both parents and children where to do so is **to protect the child**. "**The parent with whom a child is living, whether mother or father, does not have greater rights than an absent parent who is entitled to be consulted on major decision in the child's life**. (paras. 339 354)".

368. This decision is the first known of stating that non-resident parents have equal rights to the resident parent. [Most non-resident parents are fathers. Most resident parents are mothers]. It was a case the Government needed to win and only arose to reduce the costs to the State of separate vaccinations for MMR Mumps, measles and rubella so that all three injections would be given together which some claim has serious side effects. It is not indicative of the reality in secret Courts.

369. The Applicant requests that the European Court of Human Rights and/ or European Council examine this matter of gendercide in-depth. The Applicant has accumulated substantial evidence and the thirty witnesses would testify and provide evidence to the truth of the allegations here-in laid as well as the documentation of some 1800 pages available.

370. The Government is not only allowing these Human Rights abuses on a daily basis but also encouraging and funding them. This is a Public Interest mater of the utmost importance to the UK and demands to be heard.

371. It must be remembered that it was the Court of Appeal that ruled the use of evidence obtained under torture from another country could be used in the UK Courts as evidence but was recently overturned by the House of Lords.

372. No sane, right thinking person could ever agree to the use of evidence obtained under torture being allowed as reliable evidence in a Court of law, yet that is exactly what the UK Court of Appeal did.

373. Customary law throughout the world now considers torture in whichever form as unacceptable. Under the UN Convention 984 the preamble very clearly spells out that the rights of inherent dignity of the human person must be respected and no-one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

374. Europe has its own Convention on the prevention of torture, inhuman or degrading

treatment or punishment 1987. ECtHR has provided copious case law clearly stating that torture does not have to be physical; it can also be mental e.g. (Tekin v. Turkey judgment of 9 June 1998, Reports 1998-IV, pp. 1517–18, §§ 52 and 53).

375. The Permanent Court of International Justice has also held that jus cogens principles impose obligations on states to the wider international community ergo omnes to ensure they are upheld. Leading commentators have long asserted that the protection of human rights can constitute jus cogens : 'There are certain forms of illegal action that can never be justified by or put beyond the range of legitimate complaint …These are acts which are not merely illegal, but malum in se, such as certain violations of human rights, certain breaches of the laws of war, and other rules in the nature of jus cogens – that is to say, obligations of an absolute character, compliance with which is not dependent on corresponding compliance by others, but is requisite in all circumstances..

376. Certain fundamental human rights pertaining to the protection of life, liberty and security have clearly assumed jus cogens status in international law and this includes the Judiciary in the UK. *''[I]n the hierarchy of persons in authority, there is no reason why rank, however exalted, should in any circumstances protect the holder of it from responsibility when that responsibility has been established before a properly constituted tribunal. This extends even to the case of heads of State.'*

377. 'the official position as heads of State…shall not be considered as freeing them from responsibility or mitigating punishment' Article 7 was subsequently affirmed as Principle III of the Nuremberg Principles in UN General Assembly Resolution 95/1(1946) : 'The fact that a person who committed an act which constitutes a crime under international law acted as Head of State…does not relieve him from responsibility under international law.' **And therefore neither the Judiciary or other State officials should be able to do so either.**

378. This was followed by Article IV of the Genocide Convention 1948 providing that persons committing genocide ' shall be punished whether they are constitutionally responsible rulers, public officials or private individuals'

379. More recently, similar provisions are found in Articles 7(2) of the Statute of the International Criminal Tribunal for the former Yugoslavia (ICTY) 1993 and 6(2) of the International Criminal Tribunal for Rwanda (ICTR) 1994 : '*The official position of any accused person, whether as head of state or Government or as a responsible Government official,* ***shall not relieve*** **such person of criminal responsibility nor mitigate punishment**.'

380. This is further confirmed by both the unanimous approval of the General Assembly of the Nuremberg Principles and the adoption by the International Law Commission of Article 7 of the Draft Code of Crimes Against the Peace and Security of Mankind 1996 : '**The official position of an individual who commits a crime against the peace and security of mankind, even if he acted as head of State or Government, does not relieve him of criminal responsibility or mitigate punishment**.'

381. 'There can be no doubt that today a head of State cannot rely on his official position as a defence or plea in mitigation of punishment before International tribunals established to try .... crimes against humanity and that :

382. "While generally international law . . . does not directly involve obligations on individuals personally, that is not always appropriate, particularly for acts of such seriousness that they constitute not merely international wrongs (in the broad sense of a civil wrong) but rather international crimes which offend against the public order of the international

community.

383. States are artificial legal persons: they can only act through the institutions and agencies of the state, which means, ultimately through its officials and other individuals acting on behalf of the state. For international conduct which is so serious as to be tainted with criminality to be regarded as attributable only to the impersonal state and not to the individuals who ordered or perpetrated it is both unrealistic and offensive to common notions of justice…

384. the idea that individuals who commit international crimes are internationally accountable for them has now become an accepted part of international law … can no longer be doubted that as a matter of general customary international law a head of state will personally be liable to be called to account if there is sufficient evidence that he authorised or perpetrated such serious international crimes."

385. Since the end of the second world war there has been a clear recognition by the international community that certain crimes are so grave and so inhuman that they constitute crimes against international law and that there is a duty to bring to justice a person who commits such crimes. Furthermore, it is clear that such crimes include torture as prohibited by the UN Convention Against Torture 1984 (CAT) which has been ratified by the United Kingdom. CAT makes it clear that no state is to tolerate torture by its public officials or by persons acting in an official capacity and Article 2 requires that:

> **"1. Each state party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction."**
>
> **further providing that:**
>
> **"2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."**
>
> **whilst Article 4 provides:**
>
> ***"1. Each state party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture."***
>
> ***"2. Each state party shall make these offences punishable by appropriate penalties which take into account their grave nature."***
>
> **and Article 7 provides: "1. The state party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found, shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution."**

386. Burgers and Danelius make clear that these prohibitions had already assumed jus cogens status long before the treaty came into force : *"It is expedient to redress at the outset*

a widespread misunderstanding as to the objective of the Convention against ***Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly of the United Nations in 1984****.*

387. Many people assume that the Convention's principal aim is to outlaw torture and other cruel, inhuman or degrading treatment or punishment. This assumption is not correct insofar as it would imply that the prohibition of these practices is established under international law by the Convention only and that this prohibition will be binding as a rule of international law only for those states which have become parties to the Convention.

388. On the contrary, the Convention is based upon the recognition that the above-mentioned practices are already outlawed under international law. The principal aim of the Convention is to strengthen the existing prohibition of such practices by a number of supportive measures."

389. This is further reinforced by the fact that torture has been specifically defined as a crime against humanity by Articles 5, 3 and 7 of the ICTY, ICTR and ICC Statutes respectively. Torture is also explicitly prohibited under Article 7 of the International Covenant on Civil and Political Rights (ICCPR) which has been ratified by the United States and, according to the Human Rights Committee in its General Comment No. 24 on the ICCPR torture enjoys jus cogens status, together with a number of other fundamental civil and political guarantees :

> ‘’*Reservations that offend peremptory norms would not be compatible with the object and purpose of the Covenant. Although treaties that are mere exchanges of obligations between States allow them to reserve inter se application of rules of general international law, it is otherwise in human rights treaties, which are for the benefit of persons within their jurisdiction. Accordingly, provisions in the Covenant that represent customary international law (and a fortiori when they have the character of peremptory norms) may not be the subject of reservations. Accordingly, a State may not reserve the right to engage in slavery,* ***to torture****,* ***to subject persons to*** *cruel,* ***inhuman or degrading treatment or punishmen****t, to arbitrarily deprive persons of their lives, to arbitrarily arrest and detain persons, to deny freedom of thought, conscience and religion****, to presume a person guilty unless he proves his innocence****, to execute pregnant women or children, to permit the advocacy of national, racial or religious hatred, to deny to persons of marriageable age the right to marry, or to deny to minorities the right to enjoy their own culture, profess their own religion, or use their own language. And while reservations to particular clauses of article 14 may be acceptable****, a general reservation to the right to a fair trial would not be****.’*

Decisions of International Tribunals

390. Dicta and decisions from a number of recent cases before international and regional tribunals also support the trend towards ending impunity for torture and other serious human rights violations. In his dissenting judgement in the ICJ case of *Arrest Warrant of 11 April 2000 (DRC/Belgium)* (14 Feb 2000), Judge Al-Khasawneh stated : ‘*The effective combating of grave crimes has arguable assumed a jus cogens character reflecting recognition by the international community of the vital community interests and values it seeks to protect and enhance. Therefore when this hierarchically higher norm comes into conflict with the rules on immunity, it should prevail.’*

391. In the case of *Regina v Bow Street Magistrates Stipendary Magistrate, ex parte Pinochet Ugarte (Amnesty International Intervening) (No 3)* the House of Lords not only accepted the jus cogens nature of torture as an international crime, but by a majority of six to one that the former Head of State should not enjoy immunity for such crimes and could be extradited to Spain. This was on the basis that the UK, as a party to CAT, was under an obligation to either prosecute or extradite officials who had committed torture : '*A head of State is included in the term 'public officials or other persons acting in an official capacity' defined by Article 1 as the persons liable for the commission of the international crime of torture; and that this definition of the offence of torture and the obligation in the Convention to extradite or prosecute offenders is inconsistent with the retention of an immunity for a former Head of State for such a crime.*

392. The same would apply equally in gendercide to the officers of the Court, CAFCASS, Social Services, employees of the State and Judges and all lawyers and members of Parliament in this country that know what is going on is wrong. They are highly reluctant to expose the truth and are party to the madness taking place of the mental torture of parents and their children and in particular fathers.

393. There is much media talk of the Judiciary opening up the UK Courts and have called for an enquiry next April. The prediction is that they will decide to either Publish Judgements in open Court (when no-one will be able to examine the decision making process in the Court) or to permit certain persons into Court to report in a controlled manner as they ascertain and it is extremely doubtful that the Judiciary or the decision making process or true facts of the case will ever be reported, thus the Judiciary will yet again delay and cover-up their own failings, bias and carry on as if nothing has veer happened.

394. I hereby allege violations of article 17 by the UK, gendercide, against male heterosexual fathers as the protection afforded under law is not being observed in practice, the Human Rights Act is not being respected for this class of persons and fathers are regarded as being disposable and only seen as additional taxpayers through the State sponsored Child Support Agency. Indeed Baroness Hollis stated that she wanted fathers to regard the CSA as an extra tax.

III Statement of alleged violations- Article 5

395. Article 5 Rights to liberty and Security states 1. 'Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance a procedure prescribed by law.' Section 3. states 'Everyone arrested or detained in accordance with the provisions of paragraph 1(c) shall be promptly be brought before a judge or other officer **authorised by law to exercise judicial power** and shall be entitled to trial within a reasonable time or to release pending trial.' 1(c) refers to the lawful arrest or detention.

396. My application to the Magistrate's Court made prior to the hearing of the June 18th requested that the matter be transferred for a jury trial. **A Court official, not appointed independently by Parliament took it upon himself to reject my application which was addressed to the Court and refused a jury trial** (*see E.C.H.R., 26 October 1984, De Cubber v. Belgium, Publ. Court, Series A, vol. 86, pp. 13-14, § 24*).

397. At the trial on June 18th 2003, before I could make my presentation, Judge Dawson had already agreed with the Court Official and further **refused me my right to address the Court**. These fraudulent judgements obviously do not transpire any confidence in the judicial system and the judge sitting did not offer any guarantees sufficient to exclude **any legitimate doubt I have that my case will not heard in a fair and proper manner**. The Human Rights Act very clearly states that any hearing under Article 6 must be **fair and impartial**. I believe that the decisions taken by the Court manager and the DJ Dawson **without being given the opportunity to put my case** amounts to gross violation of my human rights. In Ocalan v Turkey 2003 (*Application No. 46221/99*) the Court reiterated that under the principle of equality and arms one of the features of a fair trial is that "**each party must be afforded a reasonable opportunity to present his case under conditions which do not place him under a disadvantage vis a vis his or her opponent" - I was given none!.**

398. I once again wrote to the Court stating that I request that the final hearing to be postponed as the judicial review was outstanding. Once again although **my application was made to the Court, the decision was taken by a civil servant and it was refused without giving me a chance to address the Court**. The Court manager replied by letter stating that the hearing would go ahead

and if I felt that it was unfair, to appeal the matter after the event. The District Judge Dawson on September 4th 2003 agreed with the court official and refused to postpone on the grounds that if I win my judicial review, the High Court can order a re-hearing. I refused to take part in an unfair hearing and left the Court, there has already been one adjournment and that the decision had already been made.

399. For the above reasons the Applicant submits there has been a violation of article 5 in that decisions were made by Court officials without the power to make judicial decisions.

III Statement of alleged violations- Article 7

400. Article 7 of the Convention prevents Punishment without lawful judgement: -Article 7(1). No one shall be held guilty of any criminal offence on account of any act or omission **which did not constitute a criminal offence under national or international law at the time when it was committed**.

401. Article 7(2). This article shall not prejudice the trial and punishment of any person for any act or omission which at the time when it was committed, **was criminal according to the general principles of law recognised by civilised nations**.

402. The Applicant has been found guilty of a criminal act; criminal damage, without the Court having heard his defence as the rights afforded to him under article 6 have been waived, in order to prevent the Public Interest material from being heard in open Court.

403. Article 7 states quite clearly the Applicant cannot be found guilty of any offence which did not constitute a criminal offence under National law at the time it was committed.

404. Civilised Nations would, it is submitted permit the defence to be heard in full to expose a much greater abuse of power, violations of Human Rights and other unlawful and criminal acts whether the Applicant is to be found guilty or not.

405. Until the Court hears the defence and the matter is under Appeal, the Applicant cannot be found guilty yet now schools under the Police check are informed in full of the Applicant's Criminal record affecting his employment as a teacher.

406. Since the Court, Crown Prosecution Service and the Police are all aware the Applicant does not consider the act of painting a door purple to be criminal damage and was an expression of his Human Rights to draw public attention to the failings of the closed Family Courts.

407. I therefore submit there is a violation of article 7.1

Statement relative to article 35 subsection 1 of the Convention

Page 5 Number16. The last decision of the House of Lords was on July 1st 2005 when the Application was declared inadmissible.

Page 5 Number 17. **List in chronological order of previous decisions**

February 5th 2003 arrested and charged with suspected criminal damage

February 11th 2003 Ipswich Magistrates Court remanded on bail for trial

June 18th 2003 Final hearing adjourned due to connection between Judge and prosecutor and refusal of jury trial

September 3rd to 4th 2003 Final hearing

Application for leave to apply for Judicial review of refusal of jury trial refused November 7th 2003

First direction's hearing for the Appeal December 5th 2004

Second Direction's hearing for the Appeal February 6th 2004

Crown Court Appeal booked for four days from 23rd February to 26th February 2004

Judicial review of refusal of the 30 witnesses 5th October 2004

Appeal to the Court of Appeal against refusal of the permission to Apply for judicial review decided by letter dated 12th January 2005

Order of LJ Laws dated 23rd February 2005

Preliminary decision of the House of Lords 21st March 2005

Final decision of the House of Lords July 1st 2005

Page 5 Number 18. I know of no other remedy or Appeal available to me and hence have not used it having had final decision made at the House of Lords.

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Covering letter to CPS of the exhibits 2 to 15 of the bundle and proof of receipt 4-5

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Letter dated 26th September from CF Bowler refusing the Appeal 7

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The Appeal grounds 9-11

Leave to Appeal out of time granted 12-13

Letter dated 17th October 2003 ref Leave to Appeal out of time 14-15

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Notes taken by my scribe on 5th December 2003 17

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STATEMENT OF THE OVBJECTIVE OF THE APPLICATION AND PROVISIONAL CLAIMS FOR JUST SATISFACTION

1. The idea that 'Individuals have international duties which transcend the national obligations of obedience ... Therefore [individual citizens] have the duty to violate domestic laws to prevent crimes against peace and humanity from occurring. --The Nuremberg Tribunal 1945-1946' is well-known. All I ask is that justice be done and be seen to be done.

2. In order not to cast any doubt to the independence, impartiality or bias of the judiciary, and to achieve the highest human rights international standards there is no reason why I should not have a jury trial as this is a matter of great public importance and as per Lord Atkins in the UK Court ***has both the power and the duty to remedy it'*** **in justice**.

3. The judiciary will do much to enhance its creditability in the eyes of the public if it is seen to use the powers of discretion in a manner consistent with concerns of the public and interpret the law in an unbiased manner. ''I submit that an individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, **is in reality expressing the highest respect for the law**" (*Martin Luther King Jr. (1929 - 1968*))."

4. This case is a Public interest matter and one worthy of a full and fair hearing. Since the majority of the abuses alleged are against State bodies and the Judiciary it is imperative that I be given the right to trial by jury, by my peers in order to guarantee me the right to a fair hearing as is my right under article 6 and to finally determine whether I am guilty of criminal damage or not in publicly exposing the failings behind the closed doors of the Family law system.

5. For the Court to examine individually or combined violations of articles 5, 6, 7, 10, and 13 ECHR.

6. For examination of the route of Appeal from the High Court on an Administrative matter in a criminal cause or matter which is inconsistent with article 6 ECHR and article 13 and in violation of them individually or both and incompatible with Article 6 of the Convention.

7. For an open and public enquiry into the operation of the closed Family Courts from outside the UK for the violations of article 17 against heterosexual fathers in acts of gendercide, mental torture and inhuman and degrading treatment.

8. In order to address this lack of a proper avenue for redress, I wish for this application also to be heard by the European Court of Human rights in order that the UK Government addresses the issues in the failing Family Courts and undertake to:-

> Address the training needs, recognition and assessment of **Parental alienation syndrome** (PAS) for all child welfare workers as per Elsholz V Germany paragraphs 33-36 and other rulings in ECtHR and European Countries and also USA, Israel and Canada. At present the Court will not allow argument to be presented on PAS.
>
> For both parents to be **treated equally after and during separation** as regards parental responsibility **without due cause or proper investigation** which may lead to improper outcomes acting against the best interests of the children. This would involve simple policy changes within the Health Authority, Social Services, Education Dept, and child welfare agencies and for enforcement of perjury and perversion of the course of Justice in the UK courts
>
> For a proper complaints system so that these matters may addressed with the utmost urgency for the benefit of the children's welfare without the fear of legal action since the whole concern had been the welfare of the children. CAFCASS, Health Authorities and Local Authorities protect themselves for fear of legal action. It is suggested that **a no fault complaint procedure should be established so that complaints may be openly addressed without the fear of legal action being taken in the courts**.
>
> For mechanisms to be put in place so that **domestic violence is properly addressed regardless of the gender of the perpetrator** and to address the effects on the children when proven and serious. There is no support for male victims of domestic violence, no refuges and little recognition of the effects not only of domestic violence on the male but also that the effects on the children are the same regardless of the gender of the perpetrator. The degrading way in which the Authorities treat the male victim is degrading. The Government should be funding equal treatment and access to support for both sexes and the children and not using DV as a weapon for women in the Family Courts.
>
> To recognise the importance of the father equally as the mother in child development issues rather than as being an add-on extra or a wallet for the State and for **shared residence to immediately become the norm as was the intentions of Parliament in the Children's Act which only requires judicial goodwill**.

9. I also request an undertaking that this application and the complaints put to the Court not be used in order to limit my career as a teacher or blacklist me after the State abuses I have suffered.

10. Pecuniary and non-pecuniary damages for the aforementioned violations.

11. I also request that if this application is refused for that of the grounds on which the application is refused by a Judge of the court as is my right under the European convention of Human Rights article 6.