



Not Guilty by Association: a discourse analysis of responses of family and friends to Joint Enterprise legislation in relation to 'innocent prisoners'

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**ABSTRACT**

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This research aims to address this gap in our knowledge of how resistant actors make sense of rejecting devalued or stigmatised positions and project a resistant identity in attempts to challenge social structures and norms in an everyday context (Castells, 1999; Haslam & Reicher, in press). Adopting the semi-structured interview method, 6 members' responses of grassroots campaign group Joint Enterprise Not Guilty by Association (JENGbA) were explored using POTLATCH analysis.

This analysis highlighted participants' orientations towards joint enterprise legislation as a law that unfairly criminalises social relationships. Participants resisted this categorisation of 'guilty by association' with the adoption of similar strategies as those appropriated by powers that dominate; challenging the belief that the powerful alone shape identity.

<b>KEY WORDS:</b>	<b>EVERYDAY RESISTANCE</b>	<b>JENGbA</b>	<b>DISCOURSE ANALYSIS</b>	<b>RESISTANT SOCIAL IDENTITY</b>	<b>UNFAIRNESS AND ILLEGITIMACY</b>
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**Thanks to Susanne for showing me a better way to work.**

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## Introduction

The aim of this study is to examine the actions and process of actors that challenge their subordinated positions within a particular social system (Castells, 1999; Haslam and Reicher, in press). That is, it examines participants' constructions of resistance to subjugated positions of criminalisation and their efforts to project a resistant identity of 'innocent prisoner' (Castells, 1999). This topic is explored within the social psychological framework of social identity theory and an everyday context.

This concept of resistant identity challenges the passive view that conforming behaviour is a natural passive response to power. A view that lacks recognition of the agency of minority movements, for example, feminism, to exert collective power and generate social change (Moscovici, 1976; Montenegro, 2004). In addition, it responds to Haslam and Reicher's (in press) claim that resistance is not confined to extreme situations, but is found in everyday interactions (Scot, 2008).

This research takes an Interactionist perspective that the interpretation of rule breaking is dependent on both context and those who define it (Sarbin, 1990). Within contemporary British society there are dominant ideologies of the criminal justice system, crime and the criminal. The British criminal justice system encourages compliance with the threat of punishment. It constructs the criminal within a disciplinary socially sanctioned legal framework. The rule breaker, as an individual or group, is understood within the rules and principles of establishing guilt or innocence (Lacey 2007).

However, constructs of rule breaking also emerge within the broader spectrum of commonsense psychology, such as media accounts and everyday interactions referred to as lived ideologies (Bruner, 1990; Billig et al, 1998). As such these consensual and culturally dominant constructions, referred to as hegemonic (Gramsci, 1971), can incur power imbalances where rule breakers become subjugated to the rule makers and enforcers (Henry, 2009). Hegemonic constructs are often taken for granted (Lacey and Zedner, 2007), but when interpreted as unfair or illegitimate everyday acts of resistance can undermine and force the active negotiation of policies and identities (Benwell & Stokoe, 2006; Foucault, 1990; Scott, 2008).

This research examines six participants' interpretations of such objects of unfairness and illegitimacy in response to joint enterprise legislation. Furthermore, their challenging of this law that allows joint prosecutions on the evidence of an association between alleged gang members. Indeed, prosecutors merely have to establish that there was a basis of foreseeability on the part of a defendant for crimes where evidence of intent or direct action has been unproven (Burns, 2014).

The participants are members of a grassroots organisation called Joint Enterprise Not Guilty by Association (JENGbA). This is one of several groups campaigning against joint enterprise legislation. Female volunteers predominantly run this not-for-profit organisation formed in 2010. They undertake activities to raise awareness of this law with group protests, media interviews and more recently they have handed in a petition to 10 Downing Street of some 10,000 signatures.

Currently the group supports some 500 'innocent prisoners' convicted under joint enterprise legislation. This controversial 300 year old common law has recently been the subject of writer Jimmy McGovern's television drama "*Common*" (2014). McGovern's use of this title reflects the slogan: "common people, working towards a common cause, against a common law that makes no common sense" (JENGBA, 2014) of the group he now patrons. With prosecutions becoming more commonplace, JENGBA express concern about the application and interpretation of the law within the criminal justice system.

The Institute of Race Relations (Fekete, 2012) supports these claims with findings that nearly all the, then, some 450 prisoners supported by JENGBA are from working class backgrounds. Most are men under the age of 30, with 78% from black and minority ethnic groups. Around 25% have no previous convictions with 45% unemployed when arrested and only 13% aware of joint enterprise legislation (Eady, unknown). However, this is a small sample of 101 convictions and self-reports of 'innocent prisoners' are obtained chiefly from the JENGBA database. Therefore, the data may lack reliability and be fraught with issues of social desirability that support the group's goals.

These findings have led to claims by JENGBA (2014) that this is a poor, black and working class law. Expressing feelings of unhappiness with the unfairness and the legitimacy of the law (Cardiff University Blogs, 2014), JENGBA have called for both its review by the House of Commons Justice Committee (2012) and the issue of Crown Prosecution guidelines for joint enterprise charging decisions (2012). This review is now on hold until after the 2015 elections (Parsons, 2015).

### **Theoretical Section**

Haslam and Reicher's (in press) review of experimental research and case studies of resistance, found similar discourses of unfairness and legitimacy. This included looking at Nazi Germany, the troubles in Northern Ireland, the Stanford Prison Experiment (Haney et al, 1973) and the BBC Prison Study (Reicher & Haslam, 2006).

Findings from this research led to the development of the Social Identity Model of Resistance Dynamics. This model explores the dynamics of resistant actors that, through a process called project identity; redefine their positions to seek social change (Castells, 1999). This process explains JENGBA's actions as redefining the stigmatised identity of criminal to generate a new resistant identity of 'innocent prisoner' (Castells, 1999). Additionally, this process accounts for JENGBA's actions towards challenging this law as a projection of this new identity.

Despite these parallels, the secondary analysis of primary work in Haslam and Reicher's study is dependent on the quality of the original work. This may not consider historical and cultural contexts, for example the review of Buntman's (2003) study of resistance at Robben Island, which draws on Mandela's (1994) memoirs written some four years after his release. At this time he was then president of South

Africa and reflecting upon a very different former cultural context and subject position.

Additionally, their work requires an acceptance of the underpinning Objectivist epistemologies found in much of the research reviewed. Such positivist approaches are questionable for their assumed naturalistic ability to report phenomenon and produce universal truths from unnatural contexts without interpretation (Kim, 1999). Indeed, several experimental studies are now being re-examined using qualitative analysis methods that throw new light on the original research. For example, a rhetorical analysis conducted by Gibson (2013) found significant incidents of disobedience had been largely unaccounted for in Milgram's (1963) original research.

The need of an everyday context and an approach that is consistent with social constructionist relativist ontology justifies the qualitative semi-structured interview method. Additionally, the adoption of a discourse analysis approach is necessary to examine agency, beliefs, shared interpretations and relative truths of the phenomenological subjective realities of those who are experiencing the phenomenon. To close, this research asks the question: how do how ideological groups, in an everyday context, make sense of rejecting their devalued or stigmatized position and attempt to challenge the social constraints of joint enterprise legislation (Wetherell et al 2008)?

### **Ethical Considerations:**

This research aimed to gather data with a focus on the responses of campaigners to joint enterprise legislation. This involved sensitive topics; therefore, adhering to British Psychological Society Guidelines (2010), participants considered vulnerable did not take part in this research.

To create a resistant environment that generates tensions of oppression and resistance presented an ethical issue in choice of methodology for this research. For example, by contemporary standards the experimental approach used in the Stanford Prison Experiment (Haney et al, 1973) is considered an unethical choice of research method (Blass, 1999). Consequently, an approach that examines resistance as it occurs naturally, yet contextually, is necessary. This may also improve the ecological validity of the research compared to methods that place subjects in artificial environments away from their everyday contexts.

### **Methodology**

#### Participants

The six participants are members of JENGBA. This group meets with the research criteria that participants are actively projecting resistant identities within the context of everyday settings.

This is an opportunity sample and restricted for several reasons: the group self-selected participants, there was a reluctance of some members to take part due to

fear of consequences for their loved ones if they spoke out; legal restraints that bans discussion of open court cases or appeals and participants availability within the time constraints of the research deadlines.

### Design and Data Collection Method

To expand on our understanding of how resistant actors' represent realities and take positions against dominant social discourse required a qualitative method of data collection. This method allowed access to their resistant discourses within the hidden spaces outside of the power imbalances of subject and researcher, a common criticism of quantitative research methods (Scot, 2008; Wetherell et al, 2008). This entailed recording participant' responses to a semi-structured interview guide (appendix 8) initially informed by the social identity model of resistance dynamics (Haslam & Reicher, in press) and the JENGBA (2014) website.

Interviews averaged 45 minutes. Although designed as face-to-face, one-on-one interviews, there were occasions when fellow participants injected spontaneous, but welcomed, opinions during the course of some interviews. On completion of each interview participants' were debriefed (Appendix 6).

### Data Analysis Method

Transcription of recorded data includes social interactions and features such as laughter (Wetherell et al, 2014). Coding and reduction of data took several close readings of transcripts, use of field notes, personal judgement and reference to the theoretical underpinnings of the research question (Braun & Clarke, 2006; Marshall & Rossman, 2011; Mostyn, 1985). For example data that discussed group dynamics, although interesting, on this occasion fell outside the scope of this research and was eliminated. However, this data has the potential for a future research project.

This research takes the ontological position that knowledge is productive and brought into being through shared social discursive resources that are culturally, socially and historically located (King & Horrocks, 2010). This knowledge is analysed through the lens of The POTLATCH method used for both historical and contemporary analysis of text.

This discourse analysis approach allows scope for a wide-ranging analysis of relativist constructions, variability and function of communications (Potter and Wetherell, 1987). As a multi-perspective tool it integrates several discursive traditions. For example, the Foucauldian tradition that takes a structuralism view of the subject as one that is both shaped by social structures, yet, with the employment of discursive devices, is fluid and open to agented challenge (King & Horrocks, 2010; Shotter, 1993). This flexibility makes it a suitable method to study meanings and dialogues of social action (Wetherell et al, 2014) and explore potential discourses of power, inequalities, resistance, identity, practical ideologies and the contextual systems that both shape and restrict discourses (Gough et al, 2013; Potter and Wetherell, 1987; Wetherell et al, 2001, Bunn, 2012).

### **Data Analysis and Discussion**



This study utilises the POTLATCH system (Bunn, 2012), which is receptive to available cultural and historical discursive resources and is sensitive to who gains from the preservation, resistance and transformation of subjective discourses (Edley, 2001).

This analysis orientated around four key concepts of discourse analysis. Firstly, the ideological group, this is a collective that is identifiable by their shared socio-psycho representations, beliefs and goal related ideological practices that serve to legitimise or resist relationships of power (Van Dijk, 2006); secondly, thematic polarisation (Van Dijk, 2006). These various interpretive repertoires, constructed by members of the ideological group, acknowledges the agency of resistant participants, yet highlights the limitations of culturally and historically bound resources (Flick, 2009; Potter and Wetherell, 1987; Edley, 2001). Thirdly, ideological dilemmas which, through social interaction and everyday sense making, highlight the lived ideologies of a culture and inconsistencies of their ideological discourses (Billig et al, 1998) and fourthly positioning theory (Davies and Harre, 1990). This examines how participants locate themselves in relation to objects and within interpretive repertoires.

#### Illegitimacy and Unfairness Ideology

Predominantly group members orientated their discourses towards an ideology of the unfairness of joint enterprise legislation (Speer, 2001). This corresponds with a starting category of Illegitimacy and unfairness derived from Haslam & Reicher's (in press) study that informed this research. Participants constructed this ideology of unfairness through several discursive themes.

#### Themes

##### **Innocence versus Guilty**

The participants with first hand narratives of experiences with joint enterprise used substitutes to avoid the use of the word victim and their names. They also shared similar repertoires of disillusionment with the criminal justice system. For example, in the following extract participant Blue resolves the dilemma of her son's guilty status by rejecting the legal definition of the object guilt (Van Dijk, 2006). This strategy nominalises her son's role in the offense and emphasises a need for separate considerations. By accepting lesser culpability, Blue relinquishes partial control to authority (Dumond, 2003).

*Blue: "it was a big shock to me and I'd never even heard of Joint Enterprise and I was like, well, when erm the solicitor mentioned it to me I was like I couldn't take it on board. As far as I know my son is innocent, he's pleaded guilty to assaulting the person and the guy who has actually done it has pleaded guilty to murder, so as far as I was concerned he's innocent of murder so erm I was really quite naïve [...] So, I find that, it was obviously there on CCTV and I was thinking well they've got evidence here, there is no evidence that he has done anything so he's not gonna go down for murder surely no, so I was really naïve, really naïve" (227-257).*

Blue does not resist her role of a supportive mother or her belief that her son is innocent (Van Dijk, 1984). She defends this ideological biased position (Van Dijk,

2006) by aligning her claim of innocence with two objects she constructs as impartial proof: the guilt of an alternative 'other' who has confessed to the murder and regulatory technologies that have observed the other party's guilt and her son's innocence. Blue's intention is one that locates her beyond that of a concerned mother to that of an impartial thinker. This supports Van Dijk's (2006) theory that persuasive in-groups emphasise their own credibility.

### **Naivety versus Knowing**

Blue takes a disillusioned position to negotiate that culturally presupposed knowledge of a fair legal system is naïve and unrealistic (Castells, 1997; Woolgar, 1988). Blue's narrative of her early experiences with Joint Enterprise is similar to that of the other participants who are also mothers with a child currently imprisoned by this legislation. These participants construct repertoires of naivety and trust violations aimed at the dislocation of the ideology of a fair criminal justice system. They take the subjugated position that an inability to understand the law is a social disadvantage, which is disempowering and restricts agency. Blue also presents the criminal justice as having situated knowledge (Haraway, 1991) and expertise that creates dependence because it is difficult for others to understand outside this profession. This locates the criminal justice system as having "power-over" (Allen, 1998) her. Therefore, introducing the idea that empowered actors hold the ability to constrain the choices of actors disempowered by limited resources (Van Dijk, 2006).

The only male participant, Gold, takes an alternative view. When asked if his role as a legal professional gave an advantage in his son's case. He responded: "*No cos we had the best, we had extremely good barristers and you know, who were extremely optimistic*" (175-176). This is inconsistent with the other group members' belief that being an empowered actor and having more available resources influences the outcome of joint enterprise legislation. However, this alternative repertoire may reflect that, at the time of the interview, Gold was attending his first meeting with JENGBA. Therefore, he may not have identified fully with this group at that time, but identified more with his role of a legal professional.

### **Corruption versus Integrity**

The previous two themes featured participants' positive self-representations for their in-group (Van Dijk, 2006). However, within this theme all five female participants construct the criminal justice system as a structure that is corrupt (see Table 2). Thereby, disposing its position as a socially contracted institution of moral discipline to one that is norm and value violating and self-serving of its own interests (Van Dijk, 1984). Similar to techniques adopted by the prisoners in Reicher and Haslam's (2006) BBC Prison Study, participants Blue, Red and Violet, express beliefs that discredit authorities and challenge the values associated with the identities of those who work within the court system.

Participant Violet is a founding member of JENGBA; her context is one of having extensive experience as an interviewee in relation to joint enterprise. She identifies with the role of a mother fighting for the release of her son and comments that:

*“all they care about is ticking boxes [...] they take pleasure in the victory [...] they want to win [...] even if that person’s innocent they don’t want to feel like a failure, they’d rather win and put that person in prison who’s innocent” (85-98).*

Violet introduces oppositional identities of them and us. The ‘them’ are the professionals within the justice system, whilst the ‘us’ are the ‘innocent prisoners’ disadvantaged by unethical practices (Wetherell et al, 2001). Violet contrives to dislocate ‘them’ from their positions of trustworthy experts with claims that they abuse their power to immorally manufacture verdicts for personal gain.

Conversely, participant Gold maintains a belief of integrity for his colleagues, yet still takes the position the law is unfair. Negotiating between his role of a legal professional and that of supportive father, he talks about his experiences dealing with lordships and appeals as being impressed by them, expressing judges’ views as *being “extremely optimistic” (176)* in his son’s case but feeling disappointed that their rulings were not favourable. He resolves this dilemma by adopting a strategy of assigning separate values, with the claim that *“judges are one thing, but the law is another” (334)*. He makes sense of this experience as one where British justice generally works, but describes this common law as *“antiquated”* and in need of *“modernisation” (13)*.

Gold locates this law within the legal customs of a less enlightened period, referred to as England’s ‘bloody code’, when discursive resources were limited for an oppressed poor (Seabrook, 2014). He draws attention to an incompatibility between social change and the rigidity of legal ideologies presenting them as separate (Foucault, 1990). This strategy allows Gold to assign failings to a past context and not upon his colleagues in the present. He locates judges as honourable, but disempowered by the past discursive limits of a law that is out-moded. Yet, conversely, common law procedure allows judges flexibility to apply their expertise, placing the power to construct criminality at the sole discretion of a judge (Elliott, 2015).

Violet also draws on past contexts of the criminal justice system; however, inversely, she locates this within traditional values. She contrasts this against the economic power of modern neoliberal ideologies of open markets, deregulation and privatisation as having practical unethical implications upon these traditions in the present.

*“I honestly believe that someone somewhere wrote a policy to fill the prisons so that these great big companies like G4S and Circo would find our shitty Victorian prisons a viable business object” (589-592).*

Hofstadter (1965) suggests that conspiracy discourses such as this are simplistic explanations that enable marginalised groups to make sense of complex events and overcome feelings of powerlessness. In the following statement Violet expands on this conspiracy theory to displace the criminal justice system from a traditional non-profit public service to one that is a profit-making business. She focuses attention on the prison service drawing from economic metaphors to redefine itself as an industry, or ‘working prison’ (National Offender Management Service; 2013).

*“Used to be called a prison service, it’s now called a prison industry because it’s a business, it’s not-, it’s paid for by the taxpayer, it’s paid for my men and women who go to work and yet the profit by being efficient in these private prisons go to private stakeholders. So, when you’ve got a prison and there’s only 500 prisoners in it and most of them are only doing 2 or 3 years, if you’re a shareholder you want something with a little bit more-, a little bit more longevity I would imagine, so what do you want instead of getting one-, you know, convicting one person of a crime, wouldn’t it be better if you convicted 5?” (571-579)*

The manifesto of these prisons is to create sustainable, self-financing prisons and work type environments to prevent idleness of prisoners. However, adopting a process referred to as the ‘negotiation of order’ (Hosking & Morley, 1992), Violet creates a subverted construct of this identity. One that is also a capitalist system, but produces class divisions that situates the shareholders as the exploitive ‘them’ and the working class as the exploited ‘us’. Violet’s rhetoric response distorts this economic discourse to construct a moral argument that shareholders benefit from a higher intake of prisoners (Watson, 2000).

Violet also hails the workers as exploited and suggests there are mutual interests and gains by aligning themselves with JENGBA’s cause. Howard (2000) points out that such coalition between marginalised groups are a form of intersectionality that challenges the homogeneity found in collectivist theories. That is, when motivated groups negotiate social identity they unite with other out-group identities, for example, integrated and co-opted social movements such as the feminist, lesbian, and gay movements (Woltersdorff, 2012).

### **Dependence versus Independence**

Participants also pointed to court proceedings as a source of illegitimacy. Red has been a member of Joint Enterprise for over a year and is one of the three participants who identifies as a mother fighting for justice. She uses the metaphor of *“moving the goal posts”* (24) in reference to a courtroom technique known as ‘step to verdict’. Red quantifies the variations in pages provided across different cases.

*“my son had one page of step to verdict and other cases they got to four or five pages and if you can’t get them on question number one you will get them on question number two” (25-27).*

Red constructs this inconsistency as a procedural injustice that aims to manipulate jurors’ decisions unfavourably (Colquitt et al, 2005). Blue also quantifies jurors’ decisions stating, *“they are allowed ten to two and this is somebody’s bloody life”* (267). Blue presupposes that a unanimous jury is the norm, which infers that permitting of fragmented decisions are unfair in joint enterprise cases and disregards cost to defendants.

Participant’s Blue and Gold also criticise jurors for being inattentive and looking bored, rationalising the reason for this is jurors’ inability to understand legal jargon. This claim has support from reports that suggest juries, are ‘clueless’ (Allen, 2013). However, former Chief Justice Woolf, is cited in this same article as referring to juries

as a 'safety valve'. Yet Blue states: *"when you get judges falling asleep, the jury falls asleep"* (281).

Both participants represent jurors as dependent in their decision-making. Presenting them as interpellated into a hegemonic system by their reliance upon the directions and wisdom of professional guidance. Wells (2011) supports this view that, in risk contexts, lay people depend on experts as a medium to prevent future harm. This constructs a deterministic view of the judicial proceedings, where jurors play an empty ritualistic and mechanical role, deemed necessary to keep up Woolf's illusion of fairness.

### **Priming versus Censorship**

Other discourses presented jurors as primed towards guilty verdicts. Gold refers to juries as 'brainwashed' and 'extremely rigid nowadays' (300). Gold draws on his professional and personal experiences to present juries as being prejudicially primed for producing guilty verdicts. Suggesting they convict defendants by viewing them through a lens of: 'family is really bad' (301). Blue draws on a personal narrative to support this idea of a prejudicial gaze. She claims that:

*"I've found a lot of the jury look at you like you're guilty, the judge looks at you like you're guilty for a start, half of them, half of the jury look like they are not really interested cos they think you're guilty anyway cos you have been arrested, so they are like that"* (277-280).

Both participants claim the presence of culturally shared risk representations unfairly influences jurors' impression formation of defendants and criminalises social relationships (Asch, 1946). Violet constructs the idea that defendants' social identity of belonging to a morally collapsed underclass is a myth facilitated to introduce an alternative for the true antagonistic: policy-makers, who aim to divert attention from failed ideologies of self-governance (Laclau, 1990).

*"Whichever government's in power for the last 10-15 years have been banging on about tough on crime. [...] it's all a lie, the whole lot from the beginning to end is just one lie. [...]. There's definitely no accountability whatsoever, none at all. [...] whatever it is that they've put in place, then they will do whatever they want at any point in time regardless of how it affects other people because it's never going to come back to them"* (59-80).

Kemeny (1992) supports this claim that myths allow the control of moral limits to achieve hegemony and they have the ability to disguise their power and make texts seem natural in an attempt to overcome dislocation.

Blue points to Institutions, such as the media, as an antagonist that produces labels that make particular social identities of offenders salient and creates moral panic (Becker, 1963). This locating of offenders as an immoral feral underclass requiring coercive discipline Blue presents as having negative practical consequences for defendants and reinforces the ideological role of law and order through risk discourses (White and Cunneen, 2002).

*“In the media in the beginning when my sons court case was going on I was disgusted, [...] I was absolutely infuriated what they wrote in there [...] in the paper case between my son and the boy who got murdered, [...] his dad was allowed to go out there and chat a load of crap to be honest with you. Make out he was a saint, yet they can make out my son is a monster. You don’t know my son, so why you putting that my sons a monster but his sons a saint, you don’t know what his sons about, I know what his sons about, a lot of people know what his sons about [...] you haven’t spoken to me yet and you’re presuming my sons like that”. (111-176)*

Employing a religious discourse, Blue inverts the victim’s position from that of saint to sinner categorising him as a deserving victim. She infers this as a fact that can be validated by her ability to draw on a resource of presupposed knowledge she shares with other members of her neighbourhood (Van Dijk, 2006). However, she says that she cannot share this knowledge outside her community because legal censorship oppresses defendants’ agency to contribute intertextually to negative ‘trouble’ (Edley, 2001) media discourses, yet allows freedoms to the media and other out-groups to construct this identity of ‘monster’. She uses this hyperbole to emphasise her anger at these discourses that create unequal status and assimilation of her son into cultural myths such as, the ‘hoodie’, which is symbolic of dominant risk ideologies. This discursive intention points to the limits on discursive opportunities that restricts agency for defendants in their own defence, which is counter-intuitive of freedom of speech ideologies (Kemeny, 1992; Laclau, 1990).

Participant Pink reaffirms this social passivity to the media’s informational influence. She states:

*“Yeah, because of my own experiences with my own son. You know, prior to this I would have been one of those people that would have said, read a newspaper and gone ‘he must have done something” (170-172).*

Pink constructs herself as credible by achieving objective knowledge gained from the practical experience of her son’s only criminal encounter. She achieves this by contrasting two subject positions in her repertoire: first, she positions herself in the present context as a mother enlightened and acting upon her experience, but in the past as the constructivist’s passive citizen, who accepted and absorbed cultural transmissions of the criminal as presented by the popular press.

### **Individualism versus Collectivism**

Pink again uses this strategy of comparing historical and contemporary contexts to locate young people’s gathering behaviour as natural. She rhetorically asks for the comparison of the past positive values assigned to the term group with the contemporary negative values assigned to ‘gang’ representations, suggesting an unnatural distortion of facts has occurred over time.

*“Young people always congregated in groups and they were just like groups. I went round in a group, we were a group, we weren’t a gang. Why are we saying now with*

*young people, if there is a collection of them together, why are they a gang now whereas years ago they were a group?" (83-87).*

Participant Orange also resists gang identities for today's youth. Having no first-hand experience of this law, she recounts the story of an acquaintance's son.

*"He was about 13, going into town [...] they weren't hard knocks, they were soft kids, mostly stayed in playing games on the computer [...] went, 'mum, I'm in the back of a police van, come and help me'. [...] They were forced into pleading guilty to conspiracy to cause GBH with intent, 9 of them. The one who did it pleaded guilty pre-trial. The other 9, they said, we want you all or nothing. All, or you go to trial for murder" (26-100).*

Drawing on emotive language, Orange uses this second person narrative to show her impartial, yet supportive status, which aims to negotiate this position of de-individualised gang member to that of a railroaded, naïve and frightened person. Thus, pointing to how generalisation of negative representations has practical consequences for young people.

Participant Orange exhibits a belief that equal responsibility placed on defendants is a coerced and unfair status. This is an opinion shared by all participants and locates this law within a sociological framework of crime that theorises cultural transmission as a source of offending behaviour (Sutherland, 1974). However, participants present an ideological shift of the criminalising of these social transmissions. This constructs a disciplinary risk discourse for peers comparable to Parenting Orders (1998) that demand parents exercise their authority or face conviction if children's misconduct continues (Squires, 2008).

Joint enterprise legislation often applies to violent crimes. Therefore, this shared responsibility also presents a disciplinary dilemma for jurors and court of appeal judges who risk releasing a guilty person when freeing those who have played a lesser role in the crime (Burns, 2014). Participant Gold took a flippant tone when describing this practice as:

*"All the other barristers were like 'if he gets freed, we are gonna go for it'. [...] end of the day you know, it's kind of like a party you know. It basically releases everybody" (210-215).*

Gold aligns this shared enterprise with cultural ideologies that locates this law as incompatible with Western values of individuality. He states *"it is heading towards a little bit of communism or socialism [...] we need to have a little bit of privacy, individuality"* (127-129). Gold's counter risk discourse introduces a further dilemma. His expression of concern for a progressive loss of personal freedoms is echoed in criminology research. Lynch et al (2007) claims that, as a consequence of blending the war on crime and the war on terror discourses, there is a documented sovereignty of government with publicly sanctioned freedoms to diminish the rights of citizens and increase surveillance.

## Conclusion

In conclusion, Reicher and Haslam (2006) observed in their BPS study that during power struggles resistant actors often adopt the same strategies as those affiliated with power-holders. Indeed, participants did appropriate similar practices to resist the subjugated status of guilty prisoner. This analysis identified the following classic strategies of power: emotional appeals for innocent prisoners (but suppressed for out-groups); Othering (Spivak, 1985), with positive self-representations that emphasised in-group member's credibility, innocence and disadvantage and the presentation of 'others' as dominate and corrupt or dependant and passive (Van Dijk, 2006).

Additionally, participants' were found to call for coalitions and generate rival risk discourse. Analysis identified similar patterns of challenging shared meanings, referred to as 'negotiating order' (Hosking & Morley, 1992) with the assigning of new values and the juxtaposing of historical contexts to prove ideological fluidity. Employment of this juxtaposing also served to locate participants' positions as objective by demonstration of their transition from a passive subject, accepting and absorbing cultural transmissions, to a discerning agent seeking social change.

The analysis also identified variations such as levels of trust of legal and political institutions. These disparities may reflect gender differences, levels of group integration or the difference in cultural resources available to participants. Irrespective of this variation, participants' predominately orientated towards ideological alignment that reflected their shared interests and view of the unfairness of joint enterprise.

Taking the social identity model of resistant dynamics as one form of explanation, the group's shared consistent and dissident voice of illegitimacy provides a foundation for them to work together to resist their subjugated positions. This characteristic of coherence and consistency when found in subordinated groups has transformed dominant social beliefs over time. Thus challenging the notion that the powerful alone shape identity (Moscovici, Lage & Naffrechoux, 1969): an insight that may prove interesting to the participants.

Participants' expressed concerns with policy-makers accountability, procedural justice techniques and public complacency towards institutionally facilitated cultural myths, such as hoodie. What is more, the participants shared a belief that media spectacles have practical implications for young people, especially as censorship limits their intertextuality.

As a primary source of their unfairness claims participants' discourses presented a shift in ideology towards policy-makers criminalisation of social relationships, particularly among young people. With criminology research suggesting that 'governing through crime' to reassure a worried public has consequences of mitigating excessive punishments (Simon, 2007; Vaughan & Kilcommins, 2010) it is suggested that participants' claims warrant further examination.

Overall, this research has achieved its aim of gaining insight into how social actors, in everyday contexts, actively seek to play a role in social change and understand



the actions of others. Furthermore, how they construct and act on their shared knowledge in response to differentiation (Haber 1985; Taylor et al, 2006; Fiske & Taylor, 1991).

### **Reflexive Analysis**

This approach allows space for a personal and epistemological reflexive analysis. This critical self-reflection makes visible ones own subjective position and intertextual role in the research process (King & Horrocks, 2010; Nickerson, 1998; Doswell, 2012; Sandelowski & Barroso, 2002).

### **Personal Reflexivity**

Freud's (1935) rejection of the disease model of homosexuality based on his observations of patients' resistance to treatment inspired this research. The journey from unnatural categorisation towards more progressive views of sexual orientation demonstrated how social truths and their practices are contextually located and negotiated when challenged (Foucault, 1991).

As a mature female, who has lived with a disability through periods where views towards this and women in the workplace were less progressive and restricted career options. Therefore, this concept holds a personal interest in relation to my own experience of resisting this subjugation. This and empathy for a group member, who is a long-standing friend, allowed me to relate to my participants struggle in challenging dominant ideologies from a disadvantaged position.

### **Epistemological Reflexivity**

A limitation of the discourse analysis method is the lack of guidance on how to conduct it (Flick, 2009). However, the research method has achieved the aims of gaining participants' insights into everyday resistance. Although, complete contextualisation is not possible using a semi-structured interview method (Van de Berg, 2005). For example, the semi-structured interview is a specific context that may have influenced how speakers expressed their ideological opinions (Van Dijk, 2006).

The co-constructive nature of the semi-structured interview is also acknowledged. Although, Van de Berg (2005) points out that participant response are not solely determined by interview structuring. Furthermore, and supported by Potter and Wetherell's (1987) validity criteria, participants did orientate their responses towards discourses of unfairness and illegitimacy.

Transcripts are researcher's analysis of recordings that locates the researcher as a spectator (Hammersely, 2003). Reports are constructs of the researcher, which can place the analysts concerns over that of participant's. Therefore, the reader's interpretation is dependent on decisions made by the researcher (Atkinson, 1992). A different approach that gives the reader access to the 'happenings' that occur outside of the recordings, an ethnographic study for example, may present a

different understanding to the phenomenon of resistance (Nightingale and Cromby, 1999; Sacks, 1984).

Finally, a lack of interview experience and the environmental challenges presented by participants' choice of venue introduced informality. However, this may have acquired a more relaxed environment that overcame researcher and interviewee power imbalances, which this research aimed to avoid (Kvale, 2006).

## References Section

Allen, A. (1998) Rethinking Power. *Hypatia*, 13, 1, 21-40

Allen, V. (2013). Our clueless jurors: Two-thirds 'don't understand judge's directions' - and former DPP calls for the entire system to be investigated. *Mail Online*. [Online]. 22<sup>nd</sup> February [Last accessed 6<sup>th</sup> April, 2015] at: <http://www.dailymail.co.uk/news/article-2282601/Our-clueless-jurors-Tow-thirds-dont-understand-judges-directions--DPP-calls-entire-investigated.html>

Althusser, L. (1971). Ideology and Ideological State Apparatuses. In L. Althusser (Ed.), *Lenin and Philosophy and other Essays*. New York: Monthly Review Press.

Asch, S., E. (1946). Forming Impressions of personality. *Journal of Abnormal and Social Psychology*, 41, 258-290.

Atkinson, P. (1992) *Understanding Ethnographic Texts*. California: Sage.

*BBC News UK*, (2013). *Is joint enterprise a 'lazy law'?* [online] [Last accessed on 25<sup>th</sup> November, 2014] at: <http://www.bbc.co.uk/news/uk-15299605>

Becker, H., S. (1963) *Outsiders Studies in the Sociology of Deviance*. New York, Free press

Benwell, B., & Stokoe, E. (2006) *Discourse and Identity*. Edinburgh: Edinburgh University Press Ltd.

Billig, M., Condor, S., Edwards, D., Gane, M., Middleton, D. & Radley, A (1998). *Ideological Dilemmas: A Social Psychology of Everyday Thinking*. London: Sage.

Blass, T. (Ed.) (1999). *Obedience to Authority: Current perspectives on the Milgram Paradigm*. New Jersey: Psychology Press

Braun, V. and Clarke, V. (2006) Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3, 2, 77-101.

Bruner, J., S. (1990). *Acts of Meaning (the Jerusalem-Harvard Lectures)*. Cambridge: Harvard University Press

Bunn, G. (2012). "Historical analyses", in P. Banister et al (Eds.) *Qualitative Methods in Psychology: A research guide*, 2<sup>nd</sup> Edition, Open University Press.

- Buntman, F., L. (2003) *Robben Island and Prisoner Resistance to Apartheid*. New York: Cambridge University Press.
- Burns, C. (2014). *Joint enterprise: how driving friends to buy a pizza could get you convicted for murder – Julie Price*. Blogs Cardiff Law School [online] [last accessed 25<sup>th</sup> November, 2014] at: <http://blogs.cardiff.ac.uk/law/joint-enterprise-how-driving-friends-to-buy-a-pizza-could-get-you-convicted-for-murder-julie-price/>
- Castells, M, (1999). *The Power of Identity: The information age: Economy, Society and Culture Volume II*. Oxford: Blackwell Publishers inc.
- Colquitt, J., A., Greenberg, J., & Zapata-Phelan, C., P. (2005). What is organizational justice?: A historical overview. In J. Greenberg & J. A. Colquitt (Eds.), *The handbook of organizational justice*, New Jersey: Erlbaum, pp. 3-56
- Common (2104) [TV programme]. BBC 1, 6<sup>th</sup> July, 21:00
- Davies, B & Harre, R. (1990). Positioning: The Discursive Production of Selves. *Journal for the Theory of Social Behaviour*, 20, 1, 43-63.
- Doswell, C. A. (2012), *The role of disagreement in science*. [online]. [Last accessed 28<sup>th</sup> November, 2014] at: <http://theamericanheathen.com/2012/07/07/the-role-of-disagreement-in-science/>
- Dumond, R. W. (2003). Confronting America's most ignored crime problem: The Prison Rape Elimination Act of 2003. *Journal of the American Academy of Psychiatry and the Law*, 31, 354-360.
- Edley, N. (2001). Analysing Masculinity: Interpretive Repertoires, Subject Positions and Ideological Dilemmas, in M. Wetherell, S. Taylor and S. J. Yates (eds) *Discourse as Data: A Guide for Analysis*. London: Sage.
- Elliott, L. (2015). Common Law in England.*[Online]. Last accessed on 3<sup>rd</sup> April, 2015 at: <http://www.courtroomadvice.co.uk/common-law-england.html>
- Fekete, L., (2014). *Joint Enterprise, Racism and BME Communities*. Institute of Race Relations [online] [last accessed 25<sup>th</sup> November, 2014] at: <http://www.irr.org.uk/news/joint-enterprise-racism-and-bme-communities/>
- Fiske, S., T. & Taylor S., E. (1991). *Social Cognition* New York: McGraw Hill.
- Flick, U. (2009). *An Introduction to Qualitative Research*. London: Sage Publications.
- Freud, S. (1935). Anonymous (Letter to an American mother). In E. Freud (Ed.), *The letters of Sigmund Freud* (423-424). London: Hogarth Press, 1960.
- Foucault, M. (1990). *The History of Sexuality Volume 1: An Introduction*. London, Penguin.
- Foucault, M. (1991) *Discipline and Punish: The Birth of the Prison*. New York: Vintage, 1995.
- Gibson, S. (2013). Milgram's obedience experiments: a rhetorical analysis. *British Journal of Social Psychology*, 52, 290–309.

- Gough, B, McFadden, M. and McDonald, M. (2013) *Critical Social Psychology an introduction*, Hampshire: Palgrave.
- Gramsci, A. (1971). *Selections from Prison Notebooks*. London: Lawrence and Wishart.
- Haber, R. N. (1985). Perception: A one-hundred-year perspective. In S. Koch, & D. E.
- Hammersely, M. (2003). Conversation analysis and discourse analysis: methods or paradigms. *Discourse and Society*, 14, (6) 751-781.
- Haney, C., Banks, C., & Zimbardo, P.G. (1973). Interpersonal dynamics in a simulated prison. *International Journal of Criminology and Penology*, 1, 69-97.
- Haraway, D. (1991). *Simians, cyborgs, and women: The reinvention of nature*. London: Free Association Books.
- Haslam, S, A & Reicher, S, (in press). When prisoners take over the prison: A social psychology of resistance. *Personality and Social Psychology Review*.
- Henry, S. (2009). Social constructions of crime. In J. miller (Ed.) *21<sup>st</sup> Century criminology: A reference handbook*, p296-305. Thousand Oaks: Sage Publications.
- Hofstadter, R. (1965). *The paranoid style in American politics and other essays*. New York: Knopf.
- Hosking, D., M., & Morley, I., E. (1992). *A Social Psychology of Organising*. London: Harvester Wheatsheaf.
- Hough, A. (2013). Record number of parents convicted over child's truancy. [Online] *The Telegraph*. [Last accessed 6<sup>th</sup> April, 2015] at: <http://www.telegraph.co.uk/education/educationnews/9786865/Record-number-of-parents-convicted-over-childs-truancy.html>
- House of Commons Justice Committee (2012). Should the joint enterprise doctrine be enshrined in statute? (HC1597). London: The Stationery Office Limited. [online] [last accessed 26<sup>th</sup> November, 2014] at: <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmjust/1597/159707.htm>
- Howard, J., A. (2000). Social Psychology of Identities. *Annual Review Sociology*, 26,3, 367-393.
- Joint Enterprise Not Guilty by Association (2014) [online] [last accessed 6<sup>th</sup> April, 2015] at: <http://www.jointenterprise.co/> (Direct link to page which quote has been extracted: <http://www.jointenterprise.co/>)
- Kemeny, 1992 *Housing and Social Theory*. London: Routledge.
- Kim, U, (1999). After the "crisis" in social psychology: The development of the transactional model of science. *Asian Journal of Social Psychology*, 2, 1-19.

- King, N & Horrocks, C, (2010). *Interviews in Qualitative Research*. Sage Publications: London.
- Kvale, S. (2006). Dominance through interviews and dialogues. *Journal of Qualitative Inquiry*, 12, 480-500
- Lacey, N. (2007) *Legal constructions of crime*. In: Maguire, Mike, Morgan, Rod and Reiner, Robert, (eds.) *The Oxford Handbook of Criminology*. London: Oxford University.
- Laclau, E. (1990). *New Reflections on the Revolution of Our Time*. London: Verso
- Lynch, A., MacDonald, E., & Williams, G (2007) *Law and Liberty in the War on Terror*. New South Wales: Federation Press.
- Marshall, C., & Rossman, G. B., (2011). *Designing Qualitative Research. 5<sup>th</sup> ed.*, London: Sage Publications Ltd.
- Milgram, S., (1963). Behavioral Study of Obedience. *Journal of Abnormal and Social Psychology*, 67(4), 371-378.
- Montenegro, M., (2004). Ideology and community social psychology: Theoretical considerations and practical implications. *American Journal of Community Psychology*, 30, 511-527.
- Moscovici, S. (1976). *Social influence and social change*. London: Academic Press.
- Moscovici, S., Lage, E., & Naffrechoux, M.(1969). Influence of a consistent minority on the responses of a majority in a color perception task. *Sociometry*, 32, 4, 365-380.
- (Mostyn, B., (1985). The content analysis of qualitative research data: A dynamic approach. In M. Brenner, J. Brown, & D. Canter (eds.). *The research interview: Uses and approaches* (115-145). London: Academic Press.
- National Offender Management Service (2013). Annual Report and Accounts 2012-2013. [Online] [Last accessed 6<sup>th</sup> April, 2015] at: <http://www.justice.gov.uk/downloads/publications/corporate-reports/noms/2013/noms-annual-report-accounts-2012-13.pdf>
- Nickerson, R., (1998). Confirmation Bias: A Ubiquitous Phenomenon in Many Guises. *Review of General Psychology*, 2 (2), 175-220
- Nightingale, D. & Cromby, J. (Eds) (1999). *Social constructionist psychology*. Buckingham: Open University Press.
- Parsons, R. ( 2015). No review of 'joint enterprise' prosecutions before election, says Grayling. *The Yorkshire Post*. [online] Last accessed 6<sup>th</sup> February, 2015 at: <http://www.yorkshirepost.co.uk/news/main-topics/general-news/no-review-of-joint-enterprise-prosecutions-before-election-says-grayling-1-7091424>

- Potter, J. & Wetherell, M. (1987) *Discourse and Social Psychology*. London: Sage.
- Reicher, S. D. & Haslam, S. A. (2006). "Rethinking the psychology of tyranny: The BBC Prison Study", *British Journal of Social Psychology*, 45, 1–40.
- Sacks, H. (1984) 'Notes on Methodology', in J.M. Atkinson and J. Heritage (eds) *Structures of Social Action: Studies in Conversation Analysis*, pp. 21–7. Cambridge: Cambridge University Press.
- Sandelowski, M. & Barroso, J. (2002). Reading qualitative studies. *International Journal of Qualitative Methods*, 1, 1.
- Sarbin, T.,R. (1990). Metaphors of unwanted conduct. In: D. Leary, ed (1990) *Metaphors in the History of Psychology*. Cambridge: Cambridge University Press.
- Scot, J. C., (2008). *Weapons of the Weak: Everyday forms of peasant resistance*. London: Yale University Press.
- Seabrook, K. (2014). The Bloody Code: Law and Order in Georgian England [Online] Prisoners of Eternity, The Community Website. [Last accessed 6<sup>th</sup> April, 2015] at: <http://www.prisonersofeternity.co.uk/the-bloody-code-law-and-order-in-georgian-england/>
- Shotter, J. (1993). *Conversational Realities: Constructing Life through Language*. Thousand Oaks: Sage.
- Simon, J. (2007). *Governing through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear*. Oxford: Oxford University Press.
- Speer SA. (2001). Participants Orientations, Ideology, and the Ontological Status of Hegemonic Masculinity: A Rejoinder to Nigel Edley. *Feminism and Psychology*, 11, 1, 141-144.
- Spivak, G. C. (1985) "The Rani of Sirmur: an essay in reading the archives", *History and Theory*. 24 (3): 247-272.
- Squire, P. (2008). *ASBO Nation: The criminalisation of nuisance*. Bristol: The Policy Press.
- Sutherland, E., H. (1974). *Criminology* (9th ed.). Philadelphia: Lippincott.
- Taylor, P., Deak, A., Pettit, J., & Vogel, I. (2006). *Learning for Change*. London: Institute of Development Studies. [online] [Date last accessed 26<sup>th</sup> November, 2014] at: <http://www.ids.ac.uk/files/FLASC.pdf>
- The British Psychological Society, (2010). *Code of Human Research Ethics*. Leicester: The British Psychological Society.
- The Crown Prosecution Services (2012) *CPS Guidance on: Joint Enterprise Charging Decisions*. Unknown place of publication. Unknown publisher. [Online] [Last accessed 26<sup>th</sup> November, 2014] at: [http://www.cps.gov.uk/legal/assets/uploads/files/Joint\\_Enterprise.pdf](http://www.cps.gov.uk/legal/assets/uploads/files/Joint_Enterprise.pdf)

- Van den Berg, H. (2005). Re-analyzing Qualitative Interviews from Different Angles: The Risk of Decontextualization and Other Problems of Sharing Qualitative Data. *Forum: Qualitative Social Research*, 6, 1.
- Van Dijk, T. (1984). *Prejudice in Discourse: An Analysis of Ethnic Prejudice in Cognition and Conversation*. Amsterdam: Benjamins.
- Van Dijk, T. (2006). Discourse and Manipulation. *Discourse & Society*, 17, 3, 359
- Vaughan, B., & Kilcommins, S, (2010). The governance of crime and the negotiation of justice. *Criminology and Criminal Justice*, 10, 1, 59-75.
- Watson, S. (2000) Foucault and the Study of Social Policy, in G. Lewis, S. Gewirtz & J. Clarke (eds). *Rethinking Social Policy*. London: Sage.
- Wells, H. (2011). Risk and expertise in the speed limit enforcement debate: Challenges, adaptations and responses. *Criminology and Criminal Justice*, 11, 3, 225-241.
- Wetherell, M. and Edley, J. (2008) 'Masculinity Manoeuvres: Critical Discourse Psychology and the Analysis of Identity Strategies'. In N. Coupland and A. Jaworski (eds.) *The New Sociolinguistics Reader*. Basingstoke: Palgrave Macmillan.
- Wetherell, M, Taylor, S & Yates, S. J, (2014): *Discourse as Data: A guide for analysis*. 3<sup>rd</sup> ed., London: Sage Publications Ltd.
- Wetherell, M., Taylor, S., & Yates, S., J. (2005) (eds) *Discourse Theory and Practice: A reader*. London: Sage.
- Wetherell, M., Taylor, S. & Yates, S. J. (2001). *Discourse Theory and Practice: a reader*. London: Sage in association with The Open University.
- White, R. & Cunneen, C. (2006) 'Social Class, Youth Crime and Justice', in Goldson, B. & Muncie, (eds) *Youth Crime and Justice: Critical Issues*. London: Sage Publications.
- Woltersdorff, V. (2011). Paradoxes of Precarious Sexualities. *Cultural Studies*, 25, 2, 164 -182.





*List of Sample Transcriptions*

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Participant Innocence versus Guilty

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Violet L10 -12 \*\*\*\*\* was convicted of murder, and about working out why someone who hadn't even committed a crime, let alone a murder, could possibly get sent to prison for life.

Blue L232 – 239 I was on the floor cos I was like he hasn't murdered anybody, someone has admitted to murdering them so why has he got this kind of sentence? So I was naïve to it, I was really naïve to it.

I think we were all naïve to it cos unfortunately I've been in the justice system for many, many year's right and when my son was arrested for murder I wasn't worried. I thought what a load of crap that is because how do you get found guilty of murder when you ain't murdered and ain't you gotta have evidence? They don't, they didn't have any evidence against my son.

Red L143-150 One hundred percent he is an innocent prisoner, he

was there with parole the other day and they said to him 'will you tell me your account of what happened that night?' and he said 'yes' cos you have to admit to your crime and he said 'Miss I will be in here forever, I can't admit to killing, I never killed anybody', so she said 'well, I would find that very scary, twenty five people coming down the hill some with sticks and hoods on, I would find that very intimidating' and he said, 'Yes Miss and I am very sorry for my actions but that is violent disorder Miss' and she said, 'that's right' and he said 'but I'm in here for murder Miss' and she didn't know what to say. Didn't know what to say.

Pink L18 -31 (Researcher) So you are like a founding member of it are you?

(Pink) Yeah, but it was myself, \*\*\*\*\*, \*\*\*\*\* and \*\*\*\*\*, all founding members of JENGBA. So that's how I got involved so my son was out of prison and he was not convicted for Joint Enterprise but that doesn't matter because it is still injustice. So, as a mum I know how it feels to have a son taken away from you.

(Researcher) So your son is not in prison.

(Pink) No, he's been out five years, he's been home five years.

That is really interesting for this reasoning.

(Pink) He's got a wife, he's got friends, he's in the process of finding his own home, he's come out, he has come out fairly unscathed, obviously there is underlying stuff, clearly there must be.

(Researcher)What does the Joint Enterprise law represent to you? What do you think about it? What does it stand for?

(Pink) It's unjust and it's unfair and it's sending people to prison

that should not be in prison.

- Orange L15-18 Yeah. And they didn't even tell me about it because they knew, they knew, that the truth would come out and he would be exonerated and when-, they didn't tell me until it happened to-, nine months they'd been going through it, the nightmare, without telling me, and they only had to tell me because he was charged in the end.
- Orange Orange provides a very interesting story of a proven miscarriage of justice. However, I am unable to provide the extract because it is very integrated with sensitive information.
- Gold L7 – 11. I think it is antiquated and it is also encapsulates people who really are, you know basically, it can capture people who aren't part of the, what the crime was but associated by being a friend or you know, maybe on the scene but maybe not on the scene at the time of the crime. So I think like that, it just seems to capture people who weren't part of the.

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#### Naivety versus Knowing

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- Violet L26 - 3018 months of that was spent convincing the journalist that the reason my son was in jail was because of joint enterprise, not because of a witness lying or anything like that, it was because of a legal doctrine that no-one had ever heard of and eventually she grasped that and we got the Panorama [...]
- Blue L 104- 108. I think there is a lot of people more aware of Joint Enterprise now, before maybe not, but now because of the TV programmes that's been on with JENGBA campaigners and stuff, a lot more people are aware of it so they are interested to find out so I think we get quite a good response.

Red (Researcher) Yeah, how did you come about joining them and that? How did you find them and stuff?

(Red) Err I don't know, I just went on the internet while my son was at trial and put in 'Joint Enterprise'. Something on the inside news, a paper in the prison came up and it's got my brother was done for Joint Enterprise and he wasn't there but he still got life. My solicitor said to me, cushioned me for the whole twenty months and said 'don't listen to them, they are just a bunch of prisoners who are in prison trying to make news for themselves, you don't have to be there'. So it really worried me but I still didn't believe that he would still be convicted of a murder he didn't commit. So when he did I went to see my local MP and I went on the internet and found out about JENGBA, phoned them up and then made a phone call straight back, so that's how I did it. Joint Enterprise and JENGBA, you say about Joint Enterprise, Joint Enterprise is the doctrine but JENGBA is

Pink L 8 – 17 How did you get involved with this, with JENGBA?

(Pink) Ok, I got involved with JENGBA because my son was convicted with Joint Enterprise, my son was convicted in 2007 for attempted armed robbery, so I met \*\*\*\*\* in 'London Against Injustice' in about 2007 and then, I mean he is home now, he's been out five years. He got four so obviously he did two. So I joined 'London Against Injustice' for that support which is kind of similar to this and it was for all manner of crimes which people came to 'London Against Injustice' for, and then kind of like two years in we noticed that every case that was coming in to 'London Against Injustice' was for Joint Enterprise and we were like 'Oh my god'. So that was in kind of 2010 when we thought of JENGBA and we'd collaborate with \*\*\*\*\* and we thought yeah.

social problems, I don't believe in that. If you do the crime, you do the time. So I'm not a soft thing but Joint Enterprise is sending people to prison who basically should have never been sent to prison cos they haven't done anything.

Pink L 234 – 241.(Researcher) how do you feel about it? You know, when you are in the public.

(Pink) We do always get a fairly good, I mean if you take the time to explain it, stand there and explain it. You are always gonna get the people who will never ever listen but if you actually explain it to somebody they get it, and they don't actually believe you. They go 'no, don't be silly somebody wouldn't actually go to prison if they weren't even there, if they just happened to take phone call on the day, no no no, that wouldn't happen'. I you take the time to actually explain then yeah.

Orange L204 – 205 They say it's a deterrent but if people don't know about it, how can it deter them?

Orange L221 The government, the CPS and the police because even on the justice select committee, which is made up of members of different parties, the chair didn't-, had never even heard of joint enterprise. So they're allowing it-, we've been to MPs who are quite savvy who've never heard of this, never heard of it, so if MPs don't know about it, how can that-, those working class girls we saw today with other kids and-, you know, they haven't been to college, it doesn't mean they're thick but if they're not-, if they're not-, if MPs aren't savvy enough to know about it, how can you expect a mum in Liverpool to know about it?

Gold L26- 30(Researcher) When was your first encounter with Joint Enterprise? When did you first hear about it really?

(Gold) Well it came to the fore with our son obviously; you know it's one of those things.

You hadn't heard about it before?

No, no.

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Corruption versus Integrity

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Violet L100-101 Money and power. Money and power, full stop. And self-service to themselves, their own gratification.

Blue L 135- 141. Because I think to be honest with you the government don't want everything written bout Joint Enterprise do they? I mean everything to do with the justice system don't want things written about what we are fighting for because that is making them look bad, cos we are basically saying your justice is crap, you know, your whole system is crap so they would be making them look bad. If we got big write ups about what we are doing it is making them look bad because it is coming, more people are gonna be hearing about it, more people are gonna be out there and fighting for it.

Blue L 313 – 314 I've never realised how disgusting it is and how much the Police lie and the judges, to be honest I have never really realised until this court case.

Blue L461 -464 My views on the Police, the justice system and the media since this has happened I've got so much different views. I mean I think it is so corrupted, in the justice system, in the news, in the media, in the police. There is so much corruption in all of it, I have got no faith in any of it at all.

Red (Researcher) Right, so you think it is being abused?

(Red) Absolutely.

(Researcher) So you think they are abusing it. Who do you think is abusing it?

(Red) The government, the CPS, the Police.

(Researcher) What's in it for them?

I haven't got a clue what's in it for them, for the solicitors there's a lot of money in it for them. These cases are millions and millions of pounds, so of course solicitors aren't gonna say 'oh I don't want to like, we want that abolished' but wait until it gets changed and there will be masses of appeals. They'll want, they will believe in it then. They will believe that Joint Enterprise is wrong then.

Pink And, to be honest it is empathy for other people, and it's like I can't believe this is happening in Britain today in the UK. I cannot believe, you know, I would have been the first person to ring the Police, I had so much oh my god great respect for them.

That's another question, has your view on the justice system changed in anyway?

What do you mean how has it changed?

You said you had respect for the Police in the past, now you have lost that I take it?

Yeah, I don't trust them one little bit.

Right.

I do not trust them one little bit.

And what has happened to make you not trust them?

Well because of my only experience with my own son.

Right I know you have just said that to me but I can't put words in your mouth, I can't.

Yeah, because of my own experiences with my own son. You know, prior to this I would have been one of those people that would have said, read a newspaper and gone 'he must have done something'. I would have been.

Orange L206 – 209 you know, it might be a conspiracy theory but I think prisons have become a business now and they want to fill the prisons, but it is all about money, it's all about-, if you've got-,m if you've got 1 murder case, a single murder case with 1 defendant, you're not going to get as much-, you know, 1 firm might get that money. Get 10, it's millions and millions of pounds.

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Dependence versus Independence

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Violet L48 – 50. [...]it was a policewoman and she said-, and she looked really distraught and she went, 'it's not up to me, it's them



upstairs', and I took that to mean the CPS

Blue L258- 264 On this they give you steps to verdict cos the jury wouldn't, most jurors wouldn't have a clue.

Cos we never.

They give a steps to verdict.

I don't think the jury's do have a clue cos they're on there.

And you wouldn't know what to do with these people who are on bail or charged with murder and they give this steps to verdict and that tells you can you convict them.

Red L21 – 40. (Researcher) So what does Joint Enterprise mean to you? What do you think about that law?

(Red) It's a disgrace, it should be, there is Joint Enterprise but it needs to be reformed and looked at and massive changes need to be made. It's not constructive, it's not set in stone, they change the goal posts for whatever they want to change for and step to verdict which I spoke to you about before, my son had one page of step to verdict and other cases they got to four or five pages and if you can't get them on question number one you will get them on question number two.

(Researcher) What's steps to verdict, can you explain?

(Red) How the jury would make the decision, whether your son or daughter, brother or husband should be convicted under Joint Enterprise. How they would make their decision, it makes it easy for them. You go 'no, not number one, no, oh not number two, oh

but number three'.

(Researcher)

Oh right. So it is almost like a selection, so there is no alternative, it's that or nothing.

(Red) Yeah.

(Researcher) How do you feel about that?

(Red) It's awful because it mixes points of view, cos they said in my son's case, I won't mention where, 'Are you sure the group made their way to \*\*\*\*\* to cause serious harm or for killing?' Well where they are saying where they went is not where they were going, so they made the boundary that it could be. Do you see what I mean? So you could say here.

(Researcher) I know exactly what you are talking about, I get that.

Gold L179 – 185. The whole thing was evidence they had against him and for instance, gait analysis because the rear image of him was, nobody could see that was him, it was just this person, it was just impossible. So a gait analysis analyses the movement of you know, your hips, your legs and your walk and posture and so on and from that it was like 0.15% of society and the way the experts you know, for the prosecution and the defence as well totally dismissed it. It wasn't of no quality that should have been sort of like.

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Priming versus censorship

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Violet L296 – 301 [...]when you've read a newspaper that describes

you but you don't even know it's you and you think to yourself, this is in every national newspaper in the entire country, so millions of people have read this. This woman that they're describing and this child that they're describing doesn't resemble anyone that I've ever met, let alone it be myself, so how do you fight that?

Blue L 142 – 153 (Researcher) You think it is a kind of control then?

(Blue) Well it is, if you say what you want in the paper, to be honest what I said, when I said to them what I wanted to say he said 'I would love to print this what you just said, but I know for a fact my editors are not going to let me print that'. And then he had to take certain things out of what I had said, I wasn't swearing or anything like that but what I had said about the whole case, the important bits to me you had took out because it wasn't allowed. I said to him I don't think that's right.

(Researcher) Why do you think it's not allowed?

(Blue) Well maybe they are thinking about the family of the boy or whatever, but at the end of the day its freedom of speech. You should be able to say what you want so you should be able to print what I am saying to you, this is what I believe so that is what should be on there.

Blue L 351 – 382. (Blue) I think, I think, don't get me wrong I think teenagers in general get picked on by Police, white, black, green or blue cos I think the Police just don't like this generation of kids. I think they are just picking on them for nothing, you know they walk down the street and kids can just be standing and having a cigarette. I've actually witnessed them going to a group

of boys they were like 'you wankers', a group of boys [...] Nah, definitely not and I think the Police just see them as more of a threat than they did before.

(Researcher) Do you think that's fair?

(Blue) No I don't think it is fair cos not all kids are the same. You can't judge anybody, there could be a group over here of right thugs, but there could be a group over here that are a really nice bunch of lads, just hanging out. You can't judge there might be one of there that's alright, two over there that's alright but another two might be a bit rowdy but you can't judge them all the same, but this is what they do. They judge them all the same, you get more than one person walking down the street and you're a gang, it's wrong. You could be best friends from kids in your gang, and even if you are, even if you are in a gang not all gangs are bad. You know, I find that this generation of kids don't, I mean I think they are a bit more rowdy than the generations we've had but I find if you talk to them and treat them as equals you get what you get back. It is what you give out, if you can talk to them, I mean I have said 'come on lads, don't do that you are making a mess' and they go 'alright' and they were walking away. You give them jip and they have instantly got their back up, they want to be treated like equals and they wanna be talked to.

Red L128 -139 (Researcher) so you know the term 'innocent prisoners' and 'inside campaigners'? Where have they come from, who's come up with them? Do you know who has come up with them or did you when you joined the group?

(Red) I don't know because my son is an 'inside campaigner' and he is not allowed to be. If he puts my JENGBA newsletters out he can be put on the block for that. So I don't know where it comes from and if you stand your ground, you can study law when you are in prison but you try to become a prison lawyer it's just not heard of, you are not allowed to do it. So it is very hard, I know that you get people that campaign and they go on hunger strike etcetera, like they burnt down \*\*\*\* a few years ago but I don't know how, I don't know cos as far as I am concerned my son finds it very difficult to campaign under Joint Enterprise, but he has, he got some of the screws on his side. He said 'I'm not asking for you to agree with me but will you watch the film 'Common'.

Pink L 1- 7[Researcher] So you don't really have to answer any of these, it is just to get some background information. Has it affected you in your employment or your relationship anyway?

[Pink] Err, well it did affect my employment, it affects my employment on a day-to-day basis cos I'm a civil servant so I have to be careful with what I can do and what I can't do. I have had to declare my outside campaigning work, I have to be careful so yes it has affected my employment but not in a bad way at this point. Has it affected my relationship? IN some respects yes because I have never had (laughter), I'm always out and about.

Pink L 76 – 82 The media make me sick, I don't even read newspapers anymore, I don't even read newspapers anymore. I tend to take everything they say with a total inch of salt, at the end of the day the papers are there to scandalise and make it

interesting for the reader. Right so you will have, like in \*\*\*\*\*'s case, three brothers. They are family members, they are brothers yeah, but by the time it has gone to court they will have given, not necessarily \*\*\*\*\*'s son's, but by the time it has gone to court the media will have given, whoever it is, a name.

Pink L54 – 59 (Pink) They are kind of like downtrodden and they, and I have heard people say 'well you know I don't want to do that because I am scared because the Police have already knocked down my door and I don't want to bring any more trouble to the door because I have already got my other son and my other daughter'.

(Researcher) They are trying to protect other children?

(Pink) So I think it's, some if it is kind of like a fear factor as well.

Orange L 520 – 524. One of the families down south got a-, a piece in their local paper and the first comment was 'yeah, they want him out so they can get the drugs, get back on the drugs that he used to supply' and all this and-, and I thought, you bastard, probably a copper, and I thought, no, and I reported the abuse. So I-, I do watch and I report abuse where I see it.

Gold L82-84 (Gold) We have been induced to thinking that, so the youths for example walking up and down the street, if you see a bunch you are already sort of thinking about you know, what's gonna happen here?

(Researcher) Where do think that comes from?

(Gold) It is just modern culture now you know, it's.

(Researcher) Do you think it is fair that you know when you look at.

(Gold) You are bombarded by you know, these images and

things like that so.

(Researcher) Where?

(Gold) Hoody or whatever.

(Researcher) Where have these messages come from?

(Gold) It's cultural. You sort of look at it from, you know what we see on TV and what we see on.

(Researcher) Media?

(Gold) Whatever, and call it music, Hip-hop, whatever, you have got to be a little bit more.

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#### Individualism versus Collectivism

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Violet L410-415 [...] another Lord dismissed everything he said and dismissed it by calling us-, by saying-, by not answering the question even, by saying that-, basically saying that everybody who was done for joint enterprise were gang members anyway and they were violent gang members and that we were more upset about the sentence, length of sentence.

Blue L207 -[...] if you haven't got an index killer which they have in lady number ones comments have an index killer, then her child got longer than the index killer cos he didn't plead guilty to killing him when he never, you know to bring in something more, but that's my son that got done for murder and he never killed anyone but there ain't an index killer, no one admitted to it right, so they got no index killer but they sentenced him on a secondary role but that means they don't know what they did. So

would it be just for them to ring in secondary murder? Why should my son be given secondary murder, they would love it, any prisoner that's been done with Joint Enterprise for secondary murder would love it cos they know that come, cos when you get done for murder you get mandatory life sentence, when you get done for secondary murder you don't. So when you've got twenty years you will be coming home after ten, my son hasn't got a date release right, and when he does get released he is on a ninety-nine year licence right. So, yes my son would be very grateful in secondary murder because he would be coming home in seven years, he got eighteen years, he'd be going on to do nine, so that's seven, he got let out on day release and weekly release after twenty months, the last twenty months. Is that just? No, cos he never killed anyone, why should he be done for secondary murder?

Blue

*L427 – 433 I mean they took his life away from him. I mean he has gonna have spent more time in prison than he has been alive. He has got a longer sentence than he has been alive for something he didn't do. He's not saying he didn't do something, he did something but he didn't murder someone you know, so that's what I would like. I would like them to look at cases and they shouldn't sentence prisoners to prison for murder, and they shouldn't get the murder tag on them either cos they haven't done the murder.*

Red

L173 – 182 (Researcher0 If you could wave a magic wand now what would you like to see happen, you know with regards to Joint Enterprise?



(Red) Abolished.

(Researcher) Abolished?

(Red) Abolished, and the right charges and convictions brought in for what you did. I got a friend who said to me 'well I think you need to be responsible for your actions' and I totally agree, for your actions and not for someone else's.

(Researcher) What would you like to see in regards to, was it your son?

(Red) Yeah [...] (sensitive information has been omitted at the request of the participant)

Pink L94 – 100 (Researcher) What's your reasons behind that?

(Pink) What me saying it's unjustified?

(Researcher) Yeah.

(Pink) Because they are tarring everybody with the same brush, that's why. I'm not saying that some of them aren't, I mean clearly there are, clearly there are gangs, I'm not stupid. There are gangs, but not every four people, four young people that stand on a corner are a gang, that's what I'm trying to say. They are tarring everybody with the same brush.

Pink L 225 - 231 (Researcher) Your group slogan 'Not Guilty by Association', what does that mean to you in the face of public opinion? You did go on before when you said that people just look and think, the look and see guilty or no smoke without fire.

(Pink) Ok I mean, when I look at that, ok I'm sitting next to you and if

you turn and hit this lovely young lady next to you, why should I be responsible for what you've just done? Ok so I am associated with you cos I'm sitting next to you but I'm not responsible for you. That's what it means to me.

Orange L119 – 126 (Orange) They got the 10 lads down from all the different prisons into the court and stood them all there while this one lad pleaded-, you know, tried to get the case dismissed and the judge or whoever he was just laid into all of them, 'you don't know what you've-', so, it was all building up then, so no. So, they were scared off even applying to get it dismissed or, you know, whatever. I think that's all they could have done, or for bail, some applied for bail. Wouldn't allow bail. So everything that was done then-, but we didn't even know that they couldn't do-, they shouldn't be doing that. Why did they bring 10 lads down for one applying for bail altogether to;-?

Gold Yeah, and nowadays what they are using it for is maybe for gangs, youths, things like that and if you look at it from the perpetrators point of view, ok if someone has done a crime then they are responsible for it, but when it's a group environment and you know, youngsters these days hang out together but you need to have pin point accuracy in terms of evidence.

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the research claims. Full transcripts have been omitted due to the integrated sensitive material, some of which the participants reconsidered and asked that it not be used.

