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Imran Khan, right, with Doreen and Stuart Lawrence: he and Stephen's mother have differing views on double jeopardy

For the Left it's about race and for the Right it's law and order

Imran Khan talks to **Fiona Bawdon** about the Stephen Lawrence case, which made his name

When Doreen Lawrence emerged from the High Court after its ruling in May that two men could be tried for the murder of her son, she was flanked on one side by her surviving son Stuart and on the other by her solicitor Imran Khan.

It was a fitting image. Khan has been standing shoulder to shoulder with Mrs Lawrence since the attack in 1993 in which 18-year-old Stephen died. Khan has been the driving force behind every twist and turn in the case — ranging from the low point of the collapse of the private prosecution in 1996 to the success of the 1999 public inquiry chaired by Sir William Macpherson.

Many times over the years, Khan has thought he really should pack away the Lawrence files that dominate his office, but any clearout will have to wait a little longer. Against all expectations, the final chapter in this case is still to be written. After the emergence of new scientific evidence, Gary Dobson and David Norris are due to stand trial in November for Stephen's murder.

Eighteen years after Stephen was killed, and 12 years since Macpherson reported, Khan's name is synonymous with the case. Khan, who is only 46, concedes that almost regardless of what else he does in his career, it will be the Stephen Lawrence case that is engraved on his tombstone.

Khan had been qualified for 18 months when he took the phone call from an anti-racism group that would shape his career. Would he go to see a family in southeast London who were unhappy with the police investigation into their son's murder? There was nothing to suggest that it would evolve into a landmark case that would catapult Khan from being a jobbing defence lawyer at a little-known East London firm into a household name.

Over the years, thanks to Khan's tenacity, some would say audacity, the case has generated acres of media coverage, a play, TV documentaries, a public inquiry, changes in legislation and a national debate about the nature of institutional racism. Remarkable as these achievements are, they were only ever proxies for what the Lawrence family wanted above all else: that Stephen's killers were jailed.

Until now, that has been the one thing that has eluded them — although, as a defence lawyer, Khan knows better than anyone the hurdles that the prosecution will face when the case comes to trial.

Even before the latest development, the Lawrence case was rarely out of the headlines. Khan continues to attract a high degree of public recognition, most of it friendly. "I'm astonished at the breadth of people who are nice to me on the Tube," he says. For the lawyer, who had a long involvement in race politics, the ability of the Lawrence case to generate widespread approval feels "quite bizarre", he says. "It really is the case that crosses boundaries: for people on the Left, it's about race justice; for the Right, it's about law and order."

For Khan, however, it remains a complicated case, in many ways at odds with his role as a dyed-in-the-wool defence lawyer. He did his legal training at Birnbergs, the civil liberties firm, when it was acting for the Guildford Four and Birmingham Six, before a ten-year stint at JR Jones. In 2000, he set up his eponymous firm in Central London, where he has developed a niche as an advocate for clients accused of terrorism and other serious offences. He accepts that he is in a somewhat "awkward and unusual" position: fighting doggedly for a conviction in the Lawrence case, while also defending those accused of equally horrible crimes.

Khan has particular problems over the double jeopardy rule. If it had not been abolished in 2003 (in line with the Macpherson recommendations), Dobson would not be facing trial (having been acquitted on the orders of the judge at the private prosecution). While the lawyer and the Lawrence family would like nothing more than to have Stephen's murder solved, the lawyer in him remains opposed to suspects being tried twice for the same offence.

It is one area where he and Mrs Lawrence agree to differ. Khan insists that, although it is sometimes uncomfortable, it is healthy for defence solicitors to have cherished principles challenged by those most directly affected. "I tend to be a fairly black-and-white sort of person, because it makes my life easier day to day," he says, candidly. "But I do appreciate that there are shades of grey."

One thing is certain though, says Khan. Recent changes to criminal legal aid funding mean that his firm could not afford to take on a case like the Lawrences', if it came in now. "In 1993 we had the 'luxury' of doing the case. Now we are working twice as hard for half the money and the opportunity to do pro bono work is non-existent. People still come to us, but we have to turn them away — it's heartbreaking."

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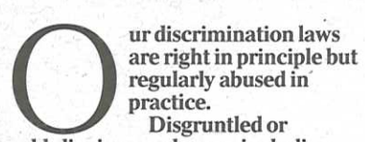
Let's not forget Mrs Marshall's 10-year s discrimination clai



Our discrimination laws are right in principle but regularly abused in practice.

Disgruntled or gold-digging employees, including some serial offenders, not infrequently bring unmeritorious cases making the gamble that the employer will prefer to write a large cheque rather than spend a lot of time and money in defending the claim. Many an employer balks at the prospect of a lengthy contest in the full glare of publicity. There is almost always an element of washing dirty linen in these cases.

I have seen discrimination claims that lack any merit settled for seven-figure sums because of these considerations. Provided the employee holds his or her nerve, there can be a reasonable expectation that the employer will blink first and get the cheque book out.

The largest such claim in which I have been involved was for £62.5 million — brought, of course, by a banker. He claimed that an act of racial discrimination had rendered him unemployable for the remaining 20 or so years of his working life. He

> The regime is open to abuse, but no one knows what to do about it

took a gloriously optimistic view of the value of options and long-term plans. The claim settled on confidential terms.

A further hazard for employers is the principle of victimisation. If an employee puts forward a legal claim, for example of discrimination, he or she is protected from suffering any detriment as a result provided that the claim has been made in good faith. That comes down to what was in the person's mind and the burden for the employer to establish bad faith is high.

A not uncommon tactic is for an employee (or a partner — the discrimination laws equally apply to partnerships), worried that he or she is about to be sacked, getting in first with an allegation of discrimination or blowing the whistle on some arguably unlawful practice. When the axe falls it can be said that was precisely because of the assertion of legal rights. Victimisation or whistleblowing also gives rise to an uncapped claim.

How did this all come about? Originally, compensation for sex or race discrimination was capped at the same amount as the award for unfair dismissal. When the Sex Discrimination Act 1975 ca force, that was £5,200. A M Marshall brought a sex discrimination claim again Southampton and South W Hampshire Area Health Au 1982 when she was compul retired at 62. Had she been her employment would hav continued until 65. Her loss amounted to £20,000 — ab times the applicable limit t

Her claim ran for more t years with two series of hea both began in an industrial and went up to the Court of twice, was considered by th of Lords once, and, to cap it two references to the Europ Court of Justice.

The decision that came n a decade later in 1993 held cap on discrimination clain domestic laws, which by th risen to £11,000, was contra European law, because it m she did not have a proper re the act of discrimination. T the spectre of claims agains by disadvantaged employee private sector, and the Gov moved quickly to remove t discrimination claims. This happened in November 199

Last May, the Chancellor Exchequer announced at th meeting of the Institute of D that the Government was r aspects of employment law high awards of compensati discrimination.

A month later the Govern professional services group tribunal awards for discrim cases to be capped at £50,0 unsuccessful employees to employer's legal costs.

The City grandees, and p Chancellor, appear to have about Mrs Marshall, a tena litigant if ever there was on introduction of a cap at £50 any other figure would fall European law — and would the obviously unsatisfactory of private and public sector employees enjoying differe remedies.

This is because an emplo public sector can, like Mrs directly rely upon and enfo European directive.

At the same time, individ private sector who suffered quantifiable loss through a properly to implement the could bring a claim against One way or another the cap ineffective.

Undoubtedly, the present open to abuse, but the realit nobody knows what to do a is virtually impossible to ge discrimination claim struck pretrial hearing. You canno employees bringing spuriou and while employers prefer handsomely rather than res they will continue to do so.

The author is the head of empl CMS Cameron McKenna LLP