

## **Defend Our Juries Analysis of the High Court ruling on the Just Stop Oil – ‘Lord’ Walney 16 Appeal**

Last Friday, the Court of Appeal gave its [ruling](#) on the [Just Stop Oil \(‘Lord’ Walney 16\) appeal](#).

The court noted the danger in treating their 2023 [Trowland](#) decision (which upheld 3-year and 2-year 7-month sentences imposed on Morgan Trowland and Marcus Decker for their climbing of the Dartford Crossing) as a benchmark for future sentences, and that this would lead to ‘undesirable sentencing inflation’. The court therefore held that the 4–5-year sentences imposed on the Whole Truth Five back in July 2024 were ‘manifestly excessive’. Roger Hallam’s sentence was therefore reduced from 5 years to 4 years, Daniel Shaw and Lou Lancaster’s from 4 years to 3 years, and Cressie Gethin and Lucia Whittaker De Abreu’s from 4 years to 30 months. Gaie Delap’s (78-year-old member of the ‘Gantry Five’) sentence was reduced by 2 months due to time spent under curfew being unaccounted for by her sentencing judge.

All 10 other appellants received no reduction in their sentences.

### **Some key points of Law**

#### *Conscientious Motivation*

The court decided that ‘conscientious motivation’ *was* a relevant factor in all of the appellants’ cases, and it would be an error for a judge to ignore it as a factor in sentencing. Nonetheless, the court decided that for ‘high culpability’ offences (such as public nuisance), conscientious motivation is only a minor mitigating factor. Judges are not required to specify by how much they have reduced a custodial sentence due to conscientious motivation.

#### *Human rights (Articles 10 and 11)*

The court ruled that Articles 10 and 11 of the ECHR (right to freedom of speech and assembly) *did* apply in all the appellants’ cases. Judge Hehir was wrong to describe the throwing of a tin of soup at a pane of glass in front of a painting as ‘violent’ and therefore outside the scope of Articles 10 and 11. Nonetheless, the court noted that the human rights protections afforded to the 16 appellants were ‘significantly weakened’ and didn’t shorten the sentences of Phoebe Plummer or Anna Holland.

#### *The Aarhus convention*

The court decided that the [Aarhus Convention](#), (the international treaty that provides for the protection of climate defenders and gives UN Special Rapporteur Michel Forst his mandate) was irrelevant to this appeal. This was because: 1) The Aarhus convention has not been incorporated directly into English law; and 2) that ‘criminal’ acts apparently do not fall under the protection of the convention.

### *On the need to ‘disavow’ Just Stop Oil*

The court sidestepped the very important question raised by defence lawyers on whether activists are now expected to ‘disavow’ Just Stop Oil in order to receive a more lenient sentence. The judges instead emphasised the need for activists to show ‘genuine remorse’ and be unlikely to ‘reoffend’ to avoid custodial sentences.

### **Conclusion**

With this decision, the legal system has made its priorities clear - deciding that ‘conscientious motivation’ i.e. the desire to protect all life and everything we hold dear, is largely irrelevant in a courtroom. And whilst a five-year sentence for planning a nonviolent protest was a little too much for the Court of Appeal to stomach, it still endorsed sentences of up to four years. With this judgement, the corporate capture of our country’s legal system is there for all to see.