

An assault on civil liberties

British Home Secretary proposes preventative detention

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Last week Labour Home Secretary Jack Straw proposed legislation allowing the courts to detain anyone considered to have a "dangerous personality disorder", whether or not they have committed a crime. This would represent a fundamental restructuring of the British legal system and a major attack on civil liberties.

In a statement to the House of Commons Straw said that the government is proposing "new legal powers for the indeterminate but reviewable detention of dangerously personality-disordered individuals. These powers would apply whether or not someone was before the courts for an offence.... If someone is before the courts for an offence--no matter what the nature of the offence is and even if it does not normally carry a heavy penalty--it would be open to the courts, subject to the criteria being met, to impose one of these indeterminate but reviewable sentences."

During a largely supportive debate, several MPs voiced worries over such an open abuse of civil liberties and human rights. Labour's Ann Clwyd said that she was concerned "about putting people in prison--locking them up--on the basis not of what they have done but of what they might do. I am sure that my Right Honourable friend [Straw] will agree that it is very difficult--perhaps it is the most difficult thing of all--to prove that one is not dangerous."

David Winnick said he was uneasy about "the possibility of abuses and the nightmare scenario of finding in 25 years' time that someone has been wrongfully detained from the beginning."

Under the present Mental Health Act it is already possible to detain people deemed by doctors to be dangerously ill. Straw argues that because this requires

that people be diagnosed as suffering from "treatable" disorders, it is inadequate to deal with the problem. Rather than address the question of why certain people are simply written off as "untreatable", Straw is seeking to use the legitimate concerns of the population for the reactionary law-and-order agenda Labour has pursued since coming to office.

Tony Benn compared Straw's proposals and internment without trial in Northern Ireland, which he said "was justified on exactly the same basis--that people who had committed no offence should be kept out of the public domain without a trial." "In the Soviet Union," Benn noted, "that practice was widely followed because it can be easily abused."

The proposals are to be introduced in a consultation document this spring, presented jointly by the Home Secretary and the Health Minister. The proposed legislation ostensibly targets an estimated 300 to 600 people who suffer from personality disorders that are a possible danger to society. This perceived threat does not legitimise measures that flagrantly disregard democratic rights.

Straw rejected Benn's parallel with internment because that was an executive (government) decision, whereas his legislation would place decisions in the hands of the courts. Even when the burden is placed upon the court to prove "guilt beyond a reasonable doubt", however, there have been numerous politically motivated frame-ups of innocent people such as the Guildford Four and the Birmingham Six.

Another serious warning is the case of Stefan Kizsko who was wrongfully accused of the rape and murder of schoolgirl Lesley Molseed and spent 16 years in jail until his acquittal in 1992. Kizsko was one of many

long-term inmates forced to stay in prison because they refused to admit their guilt and "address their offending behaviour"--a prerequisite for being granted parole. He died within a year of his release.

Dr. David Wilson was the governor of Underwood jail in Buckinghamshire while Kiszko was detained there. He resigned from his post as a senior official at Prison Service headquarters 18 months ago and has joined the Prison Reform Trust, where he received numerous convincing claims of innocence by inmates. He now believes that at least one in 50 inmates were probably innocent. Wilson had tried to persuade Kiszko to attend a Sex Offenders Treatment Programme, in which he would have had to admit to rape and murder and discuss the reasons for his offence. "Of course he refused--it was absurd," Wilson told the BBC in April 1998.

The latest proposals set the stage for even greater injustices. All that would be necessary is for someone to be declared "potentially dangerous" for them to be detained indefinitely with no right of appeal.



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