

Britain's Home Secretary to curtail right to jury trial

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25 May 1999

British Home Secretary Jack Straw signalled his intention last week of ending the right to a jury trial for thousands of defendants. In a speech to the Police Federation, Straw proposed ending this right for people accused of so-called "middle-ranking" offences, such as theft, possession of drugs, assault and actual bodily harm. Of some 280,000 defendants who could presently opt for a jury, less than 20,000 exercise their right.

At present, such offences are "triable either way" and can be heard in a Magistrate's Court before a bench of three magistrates, or, at the defendant's choice, in a Crown Court before a jury. The decision to end this choice closely follows the decision to end jury trials in certain fraud cases, on the basis that they are "too complex" for the layman to understand. This time Straw cited financial considerations. The estimated cost of a contested jury trial is £13,500, compared with £2,500 for a case heard in a Magistrate's Court.

The proposal represents a significant extension of the Labour Government's attacks on democratic rights. Conviction for "either way" offences such as theft—even when the offence is minor—can have grave and lasting consequences for those found guilty. In February 1997, when Labour was in opposition, Straw had condemned an identical proposal by the Tory government as "wrong, short-sighted and likely to prove ineffective."

The proposals have met with opposition from the Bar Council and the Law Society (professional bodies representing barristers, solicitors and other legal practitioners), as well as from civil liberties groups. John Wadham of *Liberty* said, "Juries in the criminal justice system ensure that the system is not dominated by professionals, and act as a safeguard." Bruce Holder of the Bar Council warned that the proposal is "the back door removal of jury trial and will be an

unfortunate inroad into something which is being marginalised all the time." Last year's Human Rights Act, which comes into effect in October 2000, contains the provision for the right to a fair hearing. This is effectively negated by the current proposals.

When faced with this opposition, Straw declared that the question was not just one of cost—£70 million annually according to the government—but of preventing "career" criminals from "playing the system" by serving their sentences on remand while awaiting Crown Court trial. Whether or not such abuse takes place, to deny the right to elect for jury trial is to reject the central legal tenet of "innocent until proven guilty". As novelist and lawyer John Mortimer put it in the *Guardian* newspaper, according to Straw, "Anyone accused of a ... crime is clearly guilty and the process of their conviction must not be delayed by anything as extensive and old-fashioned as a jury trial."

Opponents of Straw's proposal have drawn attention to the fact that black defendants fare considerably worse in Magistrates' Courts than they do before juries. A higher percentage of blacks elect for trial before a "jury of their peers", believing there is a better chance of receiving a fair hearing than before magistrates who are predominantly upper-middle-class and white.

More significant is the argument that the right to a jury trial is a basic democratic right that extends back to the Magna Carta (decreed by King John in 1215). Though hardly universal in feudal times, Straw's counter-blast that the right was only established in 1855 is disingenuous. In that year, some offences that had previously been triable *only* before a jury were designated "either-way" offences, so defendants could *choose* whether to be tried by a jury or by magistrates. Straw wants to take away this choice.

Straw's proposal is far more than just a cost saving

exercise. A government committed to massive social cuts—and pledged to reactionary law-and-order measures such as "three-strikes and out" sentencing in order to police rising social discontent—must impose ever harsher sentences.

It goes hand in hand with the replacement of the progressive idea that society should try to reform and rehabilitate, by an authoritarian attitude that sees the main purpose of the criminal justice system as providing punishment and retribution.

Labour does not want the existence of the jury system, with its higher acquittal rate, to cut across this agenda. Whereas 25 percent are acquitted in Magistrates' Courts, juries find some 40 percent not guilty in the Crown Courts. As Mortimer commented, the benefit of the jury system is that they can even "acquit someone who is technically guilty of an offence which they think trivial or founded on an unjust law".



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