

# RENEWING DEMOCRACY AND CIVIL SOCIETY

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Like so much in life, democracy has to be learned and practised. Yet, despite understandable cynicism about the political process, I believe that people are interested in the issues that matter. Indeed, I know from personal experience that issues such as health, education and crime are the subject of fierce discussion in pubs, cafes and living rooms across the country. That is why I want to engage people in a debate about civil society, crime and reform of the criminal justice system.

The politics of democracy are about public engagement, civil renewal and the strengthening of society through the recognition and acceptance of responsibility. The politics of those who perpetrated the terrible crimes of 11 September are the politics of terror. They have nothing to do with reason or responsibility, and everything to do with the perceived 'rights' of a minority to attack and destroy the values of the majority – freedom, democracy, equality and opportunity. Democracy is something we must play an active part in sustaining – we cannot sit back expecting our democracy to take care of itself and take no action ourselves. We are democracy.

No longer should we assume that events happening on the other side of the world don't matter to us, or that we can succeed on our own. The connections between nations, governments and individuals have real consequences and we ignore them at our peril.

But, equally, we shouldn't forget that, regardless of background, faith, colour or nationality, there is more that unites us than divides us. We share many common ideals and values. Every decent person in this country and throughout the world wants to live in a supportive community, where they know and value their neighbours, where they can enjoy positive relationships with their friends and family, where they feel safe and where they have a role that is valued. These are our aspirations for both our own citizens and the rest of the world.

This period of reflection on the value of democracy provides us with a chance to look at what we give back to our communities and how we influence them. After all, it wasn't lawyers and judges who secured democracy and freedom for our people. It was political and community action by those who sought to bring about change to liberate those who had no power, wealth or privilege, whom the law did not truly provide for or protect.

## JUDGES AND THE ROLE OF PARLIAMENT

I am not intent on knocking the professional esteem and wisdom, or the key role, of our judiciary. But if we don't have a system where people are clear on who makes decisions – and why they are the people who make decisions – democracy fails.

Lawyers should be working with us to find justice not just procedural, Pyrrhic victories. Lawyers are paid to represent clients but if that is all they are required to do then I think that should be made clear. If it is a trade, let's say so. If it is a profession, then we must debate the relationship between criminal justice system representatives and accountability and democratic processes.

As Michael Beloff has said, 'The constitution of any democratic country is operated by three organs of government: the legislature; the executive; and the judiciary. In England,

Parliament (technically the Queen in Parliament) makes the laws; the executive applies them; and the judges interpret them. The first two organs are peopled by politicians; the third by persons who are, in their public role, if not in their private beliefs, non-political.’

He continues, ‘My thesis is that one of the most profound recent changes in the Constitution results not from the designs, benign or brutal, of Thatcherite Tory or New Labour, but from the activities of the third branch of government, the judiciary, which has itself not only to a substantial extent exercised control over the legislature but even infringed the sovereignty of Parliament...’

Our judiciary is, and will remain, independent. It is their job to interpret laws and to protect freedoms. They determine that they are surely there to protect the majority from the minority, as well as the minority from the majority, and to be there at a time of the most incredible change - to allow us to modernise in order to take on the most modern threats to our freedom and security.

The credibility of our democracy depends on Government making a difference and being seen to make a difference. We need to be there when it matters, to take the actions necessary to ensure that people feel secure. They need to trust that we are getting it right.

We also need a balance of power. In 1951, in the third edition of *Justice and Administrative Law*, Professor William Robson wrote of ‘some judicial utterance (showing), a certain lack of self-confidence in the ability of the Court to intervene effectively in the administrative process, a readiness on the part of Judges to leave public administration to be regulated by Parliament and Public Authorities, a fear of intruding on the province of elected authorities or responsible ministers in questions of policy’. All this points to a reduction in the active role played by the judiciary in the democratic process. This is not a desirable situation.

But neither is the situation we find ourselves in today. Just as I regret the strong imbalance in power which seemed to exist in 1951, so 50 years later I feel just as strongly about the swing of the scales too far in the opposite direction. Last year, in the eighth edition of *Administrative Law*, Professor Sir William Wade wrote, ‘The judges... have established judicial review as an almost boundless jurisdiction over almost every kind of governmental activity.’ This is very much the case today. We must address this issue and bring sense back into the system for it to deliver all that is required by the public it serves and for the democracy it serves.

In seeking justice, not just the justice for a small few who use our democracy to hide in, but the justice that comes from ensuring protection for all, we need to remember this – it is justice we seek, not just the primacy of jurisprudence. I say all this because due process is important. But not only process - our values must inform our actions, from tackling anti-social behaviour in our communities to facing global threats.

## **RENEWING DEMOCRACY & CIVIL SOCIETY**

Civil society is made up of often informal, but very real, connections that bind individuals, families and communities together. From neighbours who keep an eye out for each other through to faith groups and voluntary and community organisations. These self-reliant, active communities are the bedrock of democracy. In them people learn to change the things around them and resolve disputes through working together rather than through conflict.

Our challenge in government is to breathe new life into our democracy. Modern political systems and challenges require everyone’s commitment, involvement and creativity. The Home Office is increasingly becoming the Department for the Citizen. It is at the heart of

identifying and defining the values that bind us together as a society and helping to influence and shape the views of what makes this a decent, open, just and tolerant country in which to live.

Our policies on race, family and the voluntary sector as well as crime reduction and immigration and nationality are underpinned by the vision of empowering individuals: empowering in order to redistribute power, and empowering to help government achieve the aims we share for society as a whole.

Enhancing the ability of individuals and families to have greater control over their lives is central to this government's agenda – better education, access to paid employment and childcare, the chance to save and build personal assets, encouraging people to become active citizens.

In our drive to reduce crime we need individuals and communities to acknowledge and act on their responsibility to support law enforcement agencies, particularly the police. In parts of the United States, citizens' contracts have been trying to achieve this in a new way. These contracts are signed between local residents, the city authority and the police agreeing a joint approach to combating crime and anti-social behaviour through each party promising to help the other and receiving promises of support itself. They demonstrate a right to be protected, but the responsibility to act, individually and as a community, to protect the most vulnerable in our society as well as ourselves. Here, the crime and disorder partnerships and safer communities initiatives offer the same sort of joined up thinking, with rights and responsibilities going hand in hand.

Empowered citizens are able to say no to drug dealers, to stop offending, as well as to support others in their neighbourhood and to help people recognise right from wrong.

There is much that government can do to revitalise our democracy. We must invest in our communities if we are to sustain ownership of change by those immediately affected by it. This means nurturing local leadership and giving more people a direct stake in society.

We must improve political literacy throughout the population. It is difficult to navigate and influence the political process without knowledge and understanding of how to respond to wider events. The Government has made some first steps in this area by introducing teaching about citizenship into our schools. I am also considering new ways in which to better integrate those who have been recently naturalised as a British citizen or received the right to permanent residency in the UK. At present, naturalisation is seen as a bureaucratic exercise rather than a positive acquisition of rights and responsibilities.

We need to extend opportunities for local consultation through neighbourhood meetings, residents' associations, citizens' juries and other grassroots organisations. This is the norm in drawing up regeneration strategies, but it is just a start.

We should consider new ways in which people can come together to discuss and debate social and political issues. You could be mistaken for thinking that these debates are only to be had in the debating chambers of the Houses of Parliament and through the media. This cannot be right. These issues are too important to be left for discussion by politicians and media commentators alone. We should examine the role of the workplace in civic life, promoting employee volunteering and after-work civic discussion in office spaces, and other arenas. I explore these issues in more detail in my book, *Politics and Progress: Renewing Democracy and Civil Society* ([www.davidblunkett.org.uk](http://www.davidblunkett.org.uk)).

Crucially we must ensure that our democratic institutions better reflect the population at large. The 1991 census revealed that minority ethnic communities make up 5.5% of our nation's citizens and since then this figure has almost certainly risen. Yet we have a long way

to go before we can say that our institutions properly represent them. The same goes for the representation of women. Faith in our democratic decision-making is eroded enough – people need to see that their interests are being championed by those that understand the problems they face and have the courage and the knowledge to help them overcome these problems.

We must also seek to expand volunteering. Volunteering builds up the commitment and skills upon which democracy depends. This is not about replacing the basic responsibilities of the state, but about building networks of informal mutual support around hospitals, social service providers, schools and museums.

And we must stop believing that politicians can ‘do’ everything. Politicians can do a lot, but without the engagement of citizens our hands are tied. That is why we strive to put in place the infrastructure needed to enable others to do things for themselves. That way, virtually everything becomes possible.

It is vital that we bridge the gap between the aspirations of citizens and the ability of government to act on them. That is not to say that government cannot be more effective in delivering public services – we have done a great deal to haul our education and health systems into the 21<sup>st</sup> century, but there is still much work to be done. Government and its institutions will not always be able to respond directly to every need so we need diversity of provision. Often it is the small, community-based organisations that are best placed to deal with some of our needs – from Neighbourhood Watch schemes to people checking on elderly neighbours to see if they need any help with the shopping.

Democracy matters and policy must be seen to be fair by the public – only then can government expect its citizens to take responsibility for their own lives. For the Home Office to do its job effectively, it needs to listen actively to what the public is saying about the issues that matter and be proactive about getting those views.

## **CRIME AND THE VICTIM**

It is for this reason that I recently launched a wide consultation with the public on the reform of sentencing following John Halliday’s report. The recent publication of Sir Robin Auld’s report on the court system will lead to a similarly wide consultation, initiated by the Lord Chancellor, the Attorney General and myself.

Public confidence in our criminal justice system is not high. If society comes to believe that the legal process (from legal representation to the judicial process) is geared more towards protecting the perpetrators of crime rather than the victims of crime, all efforts to protect those wrongfully accused and convicted of crimes are also under threat. Events over the last twenty years have ensured that we all understand, or should, that those wrongfully accused and convicted of crimes are victims too.

The public, police, victims and indeed many of those on the inside are frustrated by a system that frequently fails to deliver sentences that ensure public safety and help to cut crime. Indeed, half of convicted criminals will be back in court within two years. This shocking statistic brings home to us just how often the criminal justice system is letting us all down.

I am determined to develop a transparent system driven by clear, sensible aims. First and foremost, it should protect the public. The Government’s 10 year plan published in February this year set out where we plan to focus our efforts in reforming the criminal justice system.

We intend to catch and convict more offenders and break the link between drugs and crime. We will also ensure that punishments fit the criminal as well as the crime – persistent

offending will lead to increased severity of punishment. Recent and relevant previous convictions should lead to more intensive penalties – and persistent offenders should know this.

We will put victims at the heart of the criminal justice system. As of April 2001, the Probation Service has a statutory duty to keep victims of serious and violent and sexual crimes informed of the offender's release and conditions. Victims are also able to submit a 'personal statement' to the court setting out the effect the crime has had on their lives. Finally, we will give the police the resources they need to reduce crime and increase public assurance.

We should, of course, punish those guilty of committing crime but punishment must be part of our strategy to reduce crime. We must break the cycle of re-offending and that means giving offenders the chance of rehabilitation. A survey in 2000 suggested that 49 per cent of male and 71 per cent of female adult prisoners have no qualifications at all - around 4 times the national average. Only 28 per cent said that they had spent most of their working life in steady jobs.

Both custody and community punishment should be an experience that puts individuals back on the straight and narrow. It should help prevent re-offending by using the whole period of an offender's sentence to tackle the underlying reasons that can influence criminality in the first place – drug or alcohol problems, mental illness and depression, or chronic lack of education and qualifications. We are already making promising progress in educating prisoners in basic skills, but we must build on this and ensure that drug treatment courses reach more people if we are to reduce the number of crimes perpetrated to fuel drug addiction.

We all have views over what punishment fits a particular crime and it is only right that we should all have a chance to explain these views and help shape a system that has such a huge impact on all our lives. Active community involvement in restorative justice and rehabilitation is, in my view, as critical as what happens to someone in custody – we need to think, all of us, what role and responsibilities we have.

Families and friends of offenders are often the ones left to sort out the mess when someone is sent to prison – struggling to bring up children with an absent partner, to keep the home going and, often, to hold down a job. Communities need to support them, often at a personal level and communities need to accept and recognise when someone has changed their behaviour, supporting them through their rehabilitation into mainstream society.

The issues raised in John Halliday's and Sir Robin Auld's reports are too important to be left to a limited, closed circle of civil servants, the judiciary and politicians. We act on behalf of the public, but the direct voice of the public is democracy in action.

When the Halliday report was published, a website was dedicated to inviting the views of the public on sentencing reform. We have asked the questions in a way that I hope people around the country can relate to and that address the most important issues. The response so far has reinforced my view that it is right to ask the public for their opinions. If we are to put the sense back into sentencing, the democratic process cannot be ignored.

## **REFORMING THE COURTS**

Recently, the Auld report on the court system was published, making a valuable contribution to the debate on where reform is needed. As with the Halliday report, the issues raised in the Auld report are of wide interest.

I am not a lawyer – in my current job that is both a help and a hindrance – and my views are informed by my everyday experiences of life in Sheffield, of talking to my constituents and my community. They, and thousands like them around the country, are the real stakeholders. Ministers and the legal profession are nothing without their active support and participation: at the ballot box; as taxpayers; as community activists; and in upholding rights, and living up to responsibilities, in their everyday lives.

Robin Auld has fleshed out for us the idea of a unified criminal court to replace the Crown Court and Magistrates' Courts. We made it clear in *Criminal Justice: The Way Ahead* that we see attractions in this proposal. The idea of a unified criminal court to replace the current Crown Court and Magistrates' Courts does make sense. The new system Sir Robin recommends consists of three divisions: the Crown Division and Magistrates' Division, constituted as the Crown and Magistrates' Courts are now; and the District Division, constituted by a professional judge and two lay magistrates, exercising jurisdiction over either way cases which could merit up to two years custody. The current arrangement with two separate administrations to manage criminal courts can stand in the way of speeding up justice and better tackling crime.

The courts, like all our public services, need to deliver excellent quality to our communities. This relies on strong leadership and management, and a well-recruited and trained workforce. Expecting people to be good leaders and managers because they are clever lawyers is foolish and flies in the face of everything the business world knows to work. Clear objectives, clear roles and clear accountability are key to any successful organisation, as is appropriate training.

One of the issues that the Auld report rightly identifies is the need to make effective use of court space. To do that well we need to take a whole system view, and we need to start on that right away. That is sound management and about improving our service to the public.

But a unified court structure is only one piece of a larger jigsaw. I fully support Auld's recommendations to streamline the large number of strategy boards and consultative committees that currently exist. But he also recommends the creation of a new board to oversee IT issues. Although we clearly we need better use of IT to underpin effective management of the system, I am not convinced this is the best way to achieve that.

There needs to be a clear line of accountability from the local level, through regional and national structures, with the CJS Cabinet Committee, which I chair, running the show. The Lord Chancellor, the Attorney General and I are ultimately accountable for effective delivery of a world-class system of justice – accountable to the Prime Minister, to parliament and to the people of this country.

But justice is not just about organisations and systems of accountability. I support Auld's recommendations that juries should draw on all sections of society to the full, and that middle class withdrawal from jury service is effectively eliminated. Anyone who shirks the responsibility of jury duty helps to undermine the foundation of one of our country's most cherished freedoms.

However, it is also why I am not persuaded that having 'up to three' members of jury from an ethnic minority in race cases is right. I want all juries to be representative of all of our community. I think this is the right way to eliminate any risk of racial bias in the way juries work not by artificially building a different sort of bias into the composition of the jury.

Court security also needs serious review. The Lord Chancellor has already said that improvement is urgently needed and that escapes and attacks on judges and other courtroom staff cannot be tolerated. Together with Robin Auld we will consider options, including alternatives to a constant police presence in court – recognising the burdens that

are already on police forces throughout the country. I am also concerned how organised criminals may be able to influence jurors. We need ideas on how best to prevent this.

Sir Robin Auld sees no compelling case for the creation of any specialist courts, for example on drugs or domestic violence. I am not sure that is right. Some issues require a specialised approach and in the case of domestic violence a particularly sensitive and supporting role. Where children are involved, especially, I remain to be convinced that this is something a 'standard' court environment can provide as well as a specialist court.

We have a criminal justice tradition of which we can be rightly proud – but much more needs to be done to make sure it is fit for the 21<sup>st</sup> century. In these uncertain times more than ever we need to ensure that our democracy is truly inclusive and accountable to every citizen. That is the challenge to all of us.

## **CONCLUSION**

As long as people believe that politics and politicians can make a difference, we can retain support and legitimacy for democratic institutions. If people stop believing, the legitimacy of our whole society is lost. Those of us who have had opportunities in our lives as a result of the endeavour of previous politicians must accept the obligation to make a difference to the lives of others. As Edmund Burke said, 'The only thing necessary for the triumph of evil is for good men to do nothing'.

So, our goal should be this: a truly participative democracy, one in which everyone feels their voice is heard and they have a stake in their communities and their future. How can we support this? Through greater redistribution of power and responsibility across society and towards local communities, and through open and honest two-way communication between government and communities. Only then can we forge a sense of common membership that allows us to shape our common future.