

The Parliamentary Intention behind Schedule 21 to the Criminal Justice Act 2003

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Abstract : In 2003 Parliament passed statutory sentencing guidelines, the only of their kind, for the sentencing of murder in England and Wales, after the Home Secretary's role in determining sentences for the offence was effectively ended by the House of Lords' decision in Anderson applying Art.6 of the ECHR (European Convention on Human Rights). However, in the parliamentary debates during the passage of the Criminal Justice Act 2003 containing the guidelines, many views were expressed both by government ministers and backbench MPs of various parties concerning the gravity of the offence of murder, principally discussing the harm of death. This paper examines parliamentary debates as recorded in Hansard, to assess whether this was isolated or indeed there was a broader movement at the time to treat the harm of death more seriously by toughening sentencing regimes for other related homicide offences, or even creating new offences concerning the causing of death. Such evidence of valuing the harm of death more seriously than before would shine a new light on what previously has been deemed mere 'popular punitiveness' and offer a principled basis for lengthening the sentences of these kind of crimes.

Keywords : death, desert, gravity, harm, murder, parliamentary intention, Schedule 21, sentencing, seriousness

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