

Britain: Government seeks limit on jury trials

By Julie Hyland
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Leaked details of a government white paper on the reform of the criminal justice system reveal further efforts by the Labour government to curtail civil liberties.

Newspapers reported at the weekend that a leaked draft of the paper, named *Justice For All*, due to be published yesterday, proposes to scrap jury trials for thousands of defendants and to abolish the double jeopardy rule, which prevents suspects being tried twice for the same “grave” offence.

The newspapers have defended the veracity of their accounts, despite Home Office claims that the leaks concern a previous draft document on criminal justice reform.

They insist that the paper also proposes:

- * a clampdown on middle class professionals avoiding jury service due to work commitments;
- * new police powers to impose bail conditions, including the electronic tagging of some suspects who have yet to be charged with an offence;
- * action to be taken against lawyers accused of using “delaying tactics” to win their case;
- * the introduction of a formal system of US-style plea bargaining;
- * allowing prosecutors to appeal against judges halting trials on technicalities.

The measures are indicative of the government’s approach to criminal justice. Prime Minister Tony Blair has stated publicly that he believes the criminal justice system currently favours the guilty. This is despite conviction rates rising exponentially, with so many being incarcerated for even minor offences that prisons have become so overcrowded that some prisoners are being held in police cells.

Perversely, the draft paper is expected to admit, “Too many people are in overcrowded prisons where the prison service has insufficient time to effect behavioural change, and too many custodial sentences

are too short to make a difference. Prisoners who emerge from short-term sentences are reconvicted at a higher rate than those who serve longer sentences.”

It is expected to propose a range of “new and innovative sentences” that will lead to less people being imprisoned, as a consequence of a guilty verdict. Reserving custodial sentences mainly for violent and dangerous offenders, the paper is anticipated to suggest new sentences, such as “custody plus”—a short term of imprisonment of between 14 days and three months for adults, followed by a community programme of at least six months, and “intermittent custody”, which could see people imprisoned a weekends, whilst working normally during the week.

Whilst imprisoning fewer people, the paper proposes to increase the conviction rate by limiting the right to jury trial, as well as other democratic safeguards, that it regards as a means of shielding the accused from the full force of the law.

Working on the maxim that there can be no smoke without fire, the government has argued that the innocent have nothing to fear from the dismantling of their legal rights, ignoring the list of wrongful convictions and frame-ups that are exposed weekly.

According to reports, the white paper states, “The principle remains sacrosanct that an individual is innocent until proven guilty. But we will not tolerate abuse and obstruction of the system and we will not allow the process to be treated as a game of snakes and ladders by the defence as a tactic to get the defendant off.”

It adds, “There are too many cases where tactical manoeuvres designed to secure acquittals by disrupting the process mean the right verdict is not reached, and that is simply not good enough.”

Whilst the government is now said to have backed off from plans to openly scrap the right to trial by jury, its proposed changes will make this a fait accompli in

certain instances. Those cases deemed too complex, such as serious fraud cases, are to be heard by judges alone, for example, as will those where there is a potential for juror intimidation.

Magistrates are also to have their sentencing powers doubled to 12 months to encourage them to keep more of the cases they now send for jury trial and police given powers to impose bail conditions, including electronic tagging of those yet to be charged.

The introduction of a formal US-style plea bargaining system, with the defendant being told in advance the sentence discount for pleading guilty, is also hoped to reduce the number of cases sent for jury trial.

Ministers are said to believe such measures will cut the number of jury trials by 6,000 a year.

The plans to cut down on the number of people abstaining from jury service due to work commitments is also aimed at increasing the conviction rate.

Ministers are said to be dismayed at the number of not guilty verdicts handed down by jurors, particularly in working class areas. Acquittals by juries in Liverpool are double that at the Old Bailey in London, for example. The government has said that exemption clauses enabling those such as doctors, lawyers and peers to avoid jury service have made many jury benches “unrepresentative”. It hopes that middle class professionals will be more likely to take a tougher line against those on trial, boosting the numbers found guilty.

The white paper is also said to propose that a defendant’s previous convictions and conduct should be disclosed to jurors and that the Crown Prosecution Service be given new rights to challenge rulings.

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