

Britain: Labour government reneges on promised corporate killing law

By Neil Hodge
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Plans to introduce an offence of corporate killing in the UK to punish companies and their directors for deaths of employees or members of the public under their charge have been put on hold.

The Home Office says that it has failed to negotiate time to introduce legislation on the issue in the next session of parliament. It is now unlikely to become law any time before 2004—seven years after Labour promised to create the offence.

Business lobby group, the Confederation of British Industry, has strongly urged the government to revise its proposals. It complains that the current draft proposals allow for the “pursuit of individuals” not directly in charge of health and safety, such as board members, for example. But these are the very people that the proposed law is supposed to be aimed at, especially after the failed prosecutions relating to such high profile cases like the Zeebrugge ferry disaster in 1987.

The move towards legal reform took shape in March 1996 when the Law Commission published a report on Involuntary Manslaughter and published a draft bill for consultation. The bill recommended that there should be a special offence of “corporate killing”, broadly corresponding to the individual offence of killing by gross carelessness. It said that—as with the individual offence—companies should be liable to prosecution if the conduct that caused death fell below what could reasonably be expected.

Importantly, the commission also recommended that—unlike the individual offence—the corporate offence should not require that the risk be obvious, or that the defendant be capable of appreciating the risk. And it recommended that, for the purposes of the corporate offence, a death should be regarded as having been caused by the conduct of a corporation if it is

“caused by a failure in the way in which the corporation’s activities are managed or organised to ensure the health and safety of persons employed in or affected by those activities”. For the purposes of the corporate offence, management failure on the part of the corporation could be treated as the cause of a person’s death, even if the immediate cause is the act or omission of an individual, the commission said.

Labour has formally supported a tightening of corporate manslaughter legislation since the Zeebrugge ferry disaster case collapsed on October 19, 1990. “It seems that the British courts have confirmed that companies are not responsible for their actions in regard to the safety of their operations,” said John Prescott, then opposition transport spokesman. He added that a Labour government would legislate to ensure there was corporate responsibility.

When Labour came to power seven years later, then Home Secretary Jack Straw announced plans for a new corporate killing law at a Labour Party conference on October 2. “Many countries do have laws which provide for conviction of directors of companies where it’s claimed that, as a result of dreadful negligence by the company as a whole, people have lost their lives. There’s a strong argument for having such provisions so that people cannot be criminally negligent and allow innocent people to go to their deaths, and suffer no punishment,” said Straw.

In May 2000 Straw finally published the proposals for the corporate killing law, called *Reforming the law on involuntary manslaughter: the Government’s proposals*. It said: “The present law in this area is unclear... where corporations are concerned, it is ineffective. Such defects can cause real problems and, indeed, distress, particularly where they mean the criminal law is unable to convict anyone... The law

needs to be clear and effective in order to secure public confidence.”

One year later the government pledged in its general election manifesto last May that “law reform is necessary to make provisions against corporate manslaughter.” The Home Office hoped to have the proposals made law by the end of last year, or “as soon as possible”, but the impetus has since stalled. On March 6 this year the government said, “we are committed to introducing legislation on the issue as soon as parliamentary time allows, but there is no timetable.”

Since coming to power a series of fatal rail crashes at Southall, Ladbroke Grove, Hatfield, Selby and Potters Bar have led to a growing clamour for the offence to be introduced. According to David Bergman of the Centre for Corporate Accountability, which campaigns to make directors individually accountable for deaths in their charge, there have been around 1,500 workplace deaths since Labour took office. But the government is continuing to use the phrase “as soon as parliamentary time allows” to evade pushing through a bill that will be unpopular with big business and is likely to reduce Labour Party funding. The Home Office says that the corporate killing bill “is not being delayed because there has never been a proper timetable to introduce it”. Once again the government has cited the “war against terrorism” as justification for its actions. The Home Office claimed that the proposals on corporate manslaughter had been superseded by events post September 11 to issue a raft of legislation to boost government powers to detain indefinitely foreigners suspected—but not proven—to have terrorist links and to increase police powers of arrest.

The government’s priority is the implementation of antidemocratic measures of repression. On July 30, the UK’s Special Immigration Appeals Commission ruled that keeping nine terrorist suspects in jail was a breach of their human rights because Labour’s hastily drafted Anti-Terrorism, Crime and Security Act applied only to foreigners. There is every likelihood that the Nationality, Immigration and Asylum bill and the Police Reform Act will also be found to contravene human rights legislation. Therefore revising the flaws in the government’s anti-terror legislation could take up a serious amount of parliamentary time, which the Home Office readily admitted will make it even more

difficult to set any kind of schedule to push through the corporate killing legislation.

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