Britain: Labour abandons planned corporate killing legislation

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Britain's Labour government has dropped plans to make companies and their directors liable for deaths in their charge. Home Secretary David Blunkett bowed before intense pressure from business groups who insisted the proposed law of corporate killing would be "unworkable", would "lead to the pursuit of individuals" and leave companies defenceless against criminal convictions in the wake of train crashes and other accidents.

Loopholes in the existing law mean big companies are effectively immune from criminal prosecutions for fatal accidents. The proposed law would make companies liable whenever their conduct fell "far below what could reasonably be expected"—a test that the Confederation of British Industry (CBI) has claimed is unfair. It appears that big business has now persuaded the home secretary not to include the proposed offence in his forthcoming criminal justice bill.

Instead, a new law on corporate killing (not included in November's Queen's Speech detailing the government's agenda for the parliamentary session) will concentrate virtually all the punishment on the companies, rather than their managers and directors. Government proposals to disqualify automatically any individuals who had "some influence on, or responsibility for" the management failure that caused a fatal accident have been dropped.

The delay follows Blunkett's decision in October to backtrack on earlier proposals to punish board members for management failures that cause accidents. Plans outlined in 2000 to disqualify automatically directors who share responsibility for disasters were dropped. At the same time, the Home Office wrote to companies in industries with high fatal accident rates, such as mining and construction, asking for examples of any problems that could be caused by the new law and for estimates of the potential costs involved.

Calls for a law of corporate killing stretch back almost 40 years in response to the death of Glanville Evans. He was killed when the bridge he was working on collapsed and he fell into the River Wye. The company that employed him had clearly been reckless, but an attempt to convict it for manslaughter failed. That was in February 1965. Since then more than 31,000 people have been killed at work or through commercially related disasters such as train crashes. Safety reports have shown that management failures are responsible in most cases. However, since Evans's death only 12 prosecutions for manslaughter have been brought and only three have resulted in a conviction—all of them for small and medium-sized enterprises.

In December 1994 the leisure company OLL was successfully convicted of corporate manslaughter after four schoolchildren in its care died in a canoeing accident in Lyme Bay in Dorset. It was fined £60,000 and the managing director was jailed for three years (later reduced to two on appeal). In the second case, the managing director of Jackson Transport (Ossett) was sent to prison for a year in 1996, following the death of an employee who inhaled chemicals. The last successful prosecution was in December 1999, when two directors of a haulage firm were given suspended sentences after they were found guilty of ignoring the excessive working hours of their driver who fell asleep at the wheel and killed two motorists in a seven vehicle pile-up on the M25 motorway.

A series of horrific—and avoidable—accidents that have hit the headlines over the past 20 years has turned public opinion firmly against big business getting away with lax safety controls aimed at safeguarding their profits. What has also hit the headlines is that not one

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person or company was ever prosecuted for causing the deaths of these people.

The move towards legal reform took shape in March 1996, under the previous Conservative government, when the Law Commission published a report on involuntary manslaughter and 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 death 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. For the purposes of the corporate offence, it recommended that a business should be held responsible if death was “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”.. The Law Commission also said 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 an act or omission of the individual.

The Commission’s recommendations were largely accepted by the Home Office, which published its own consultation document in May 2000. The government widened the scope of the proposed legislation last year by applying the law to NHS trusts, school governing bodies, charities and other public bodies so that the offence covered around 3.5 million enterprises.

Labour has formally supported a tightening of corporate manslaughter legislation since the Zeebrugge ferry disaster case collapsed on October 19, 1990. 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 in October 1997.

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 reinforced its commitment to make directors and large companies more accountable for deaths at work, pledging 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”.. On March 6 this year the government said that it was “committed to introducing legislation on the issue as soon as parliamentary time allows, but there is no timetable.”

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