Britain: New crime bill flouts presumption of innocence

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This week the Home Office published its proposed Serious Crime bill. Under the guise of tackling "serious and organized crime," the Blair government is to further erode the presumption of innocence, so that people who have not been charged—let alone convicted—of a criminal offence can be subject to draconian restrictions on their freedom of movement.

At the centre of the government's proposals are measures to extend Anti-Social Behaviour Orders (Asbos), first introduced in April 1999 as part of the Crime and Disorder Act. Asbos are issued by magistrates against named individuals for a range of behaviours that are not necessarily criminal. In the past, they have been used to bar those named from certain areas, to impose curfew times and/or to bar ownership of TV's or radios for example, so as to prevent an individual from playing music loudly.

Thousands of Asbos have been imposed over the last years, mainly against the young, attracting punishments often disproportionate to the offence deemed to have been committed. The orders are non-time-specific and whilst the original "offence" is usually of a non-criminal nature, breaching an Asbo can be punished by up to five years in prison.

Previously the government had claimed that complaints as to the impact of Asbos on civil liberties were exaggerated, as the orders were aimed at minor, "nuisance" behaviours. Now the Home Office proposes to significantly expand their use into areas recognized as criminal, but bypassing the right to a trial based on the principle of establishing guilt "beyond reasonable doubt." The order can be imposed even if the person involved has no criminal record.

The Home Office web site claims that the new super-Asbos "are designed to make life more difficult for serious criminals by disrupting their activities in both big and small ways, making it harder for them to cause damage or defraud innocent people."

Announcing the bill, Home Secretary John Reid said, "We are bringing in reforms to get the Mr. Bigs of the organized crime world," while Home Office Minister Vernon Coaker argued it would enable police to combat previously "untouchable" criminals. "People who believe they are beyond the law and untouchable will know that the government is on the side of the ordinary law-abiding majority."

There is a ludicrous element to the assertion that Britain's "Mr. Bigs" are the primary targets of the proposed legislation, let alone that its measures would constitute a serious impediment to a major criminal. In fact the remit of the proposed legislation is far more broadly defined. According to the BBC, the new serious crime prevention orders, which will be applied for by the Crown Prosecution Service, the Serious Fraud Office or the Revenue and Customs Prosecution Office, may be "imposed by the courts if they believed, on the balance of probability, that the suspect had acted *in a way which helped or was likely to help a serious crime*. Orders would also be used if courts felt it was necessary and proportionate to prevent such criminal harm in the future."

The government has said that some 30 "top" criminals could be targeted by the super-Asbos. But in addition to the orders being imposed against those suspected of involvement in drugs, prostitution, fraud and money laundering, the bill contains provisions for them to be used against "fishing for salmon, trout or freshwater fish with prohibited implements" and unauthorised waste disposal!

Measures that may be implemented under the orders include prohibitions or restrictions on "an individual's financial, property or business dealings or holdings"

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and an “individual’s working arrangements.” They can also be used to restrict or prohibit contact between an individual and other persons, and to limit freedom of travel, both within the UK and abroad. News reports indicate that this could mean banning a suspected criminal from owning a mobile phone or frequenting premises where criminal activity is believed to be taking place.

The new bill also enables anti-fraud agencies to access details of an individual’s salary, benefits and taxes held by government agencies, and for information to be shared between them. Although the legislation excludes access to health service records, it empowers the home secretary to extend the data-matching remit and it acknowledges that fraud prevention could eventually be expanded to enable access to central government records, including passports and driving licences.

The *Guardian* noted that this followed “a decision by the cabinet last summer to overturn the basic data protection principle that personal information provided to a government department for one purpose should in general not be used for another. Instead ministers have reversed the principle so ‘information will normally be shared in the public sector, provided it is in the public interest’.”

The proposed legislation raises the question that if leading criminals are to be targeted, why can they not be dealt with through existing judicial procedures?

The human rights group Liberty has attacked the proposed legislation as “part of a dangerous government trend toward punishing individuals despite a lack of evidence of their guilt.”

Speaking for the group, Jago Russell said, “We used to believe in hard evidence and fair trials in this country—now we dispense rapid-fire justice as quickly as the government can develop a catchy four-letter acronym for it.”

As the *Guardian* noted, “The average decade in the 60 years up to 1985 produced one criminal justice act; the next 10 years saw one passed every 18 months; since 1997 the rate has stepped up again to reach more than two a year.”

The newspaper went on to blandly state that Labour was taking a somewhat “cavalier” approach towards crime. But the measures introduced by Labour over the last decade—ranging from the “war on terror” to measures against anti-social behaviour—reveal a more calculated assault on democratic rights. Fundamental principles such as habeas corpus and the presumption of innocence have been repeatedly attacked and undermined to such an extent that the legal framework for a police state has been constituted in Britain.

The powers that be now have the right to seize individuals and hold them without charge on the say-so of a government minister and/or the security services. Even if an individual is not officially detained, they can be subject to conditions of house arrest whereby any form of communication with the outside world is virtually forbidden.

Nor should it be forgotten that the police have also acquired shoot-to-kill powers and have insisted that this new-found “right” must be preserved in the aftermath of the gunning down of innocent Brazilian worker Jean Charles de Menezes in 2005 by armed plain clothes officers.

Such measures are the product of a government that rules as the representative of a narrow layer of the super-rich, imposing its demands for colonial style wars of conquest and the redistribution of wealth from the bottom to the top on an increasingly hostile population. Lacking any popular base for its rule, it regards the mass of the population with fear and hatred and must resort ever more determinedly to repressive state measures to impose policies for which it cannot possibly secure a democratic mandate.

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