

UK government passes legislation for secret courts

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9 March 2013

On Monday, the Conservative-Liberal Democrat coalition government pushed its Justice and Security Bill through the House of Commons. By enabling the government to cover up its crimes, the bill raises the spectre of an untrammelled dictatorship.

Under the legislation, ministers will be able to introduce “closed material procedures.” That is, they will be able to establish secret trials for civil law cases in which the public and media are excluded from proceedings where the government is a defendant and national security is said to be at stake.

The planned legislation will also prevent the accusers of the British state and their lawyers from accessing and challenging evidence submitted in the government’s defence, by removing the courts’ power to insist on the disclosure of information held by the authorities in cases deemed to be “sensitive.” It would mean that the government could suppress information about the handover of Afghan detainees by Britain to Afghan jails where they risk being tortured, or about UK involvement in US drone strikes.

The bill allows the government to appoint special advocates to represent the claimants, instead of lawyers of their own choosing, making it impossible for the claimants to know why their cases failed or succeeded.

It is a profoundly undemocratic bill that marks a major departure in long-held principles of English law—that cases are held and decided in public and that the evidence presented by the other party is disclosed. Following on from the secret hearings permitted in immigration cases, it paves the way for secret trials to be extended beyond national security-related cases, as the wording of government amendments to the bill indicates, and thus become a standard part of the English legal system.

As Andrew Tyrie MP and Anthony Peto QC point out

in their report, *Neither Just nor Secure*, secrecy could be imposed to prevent inquiries by investigative journalists, halt or limit protests, prevent people from recovering property seized under the Proceeds of Crime Act and stop injured servicemen from suing the Ministry of Defence for faulty equipment.

Taken together, the bill will make it impossible for claimants to know anything about their case, making it easier for ministers and the security services to cover up their crimes, such as rendition and torture.

The bill flows from the out-of-court settlements to 16 alleged terror suspects, including former Guantanamo Bay detainee Binyam Mohamed, of around £1 million each to settle charges of British involvement in their abuse and torture and avoid such evidence being aired in court. Last December, Sami al-Saadi, a Libyan who was seized in Hong Kong and rendered to Libya, agreed on a £2.2 million settlement with the government, which admitted no liability in his rendition.

These settlements were in turn prompted by the Supreme Court’s decision to uphold the fundamental principle that allegations of and evidence of criminality by state officials must be heard in open session.

Other similar cases are due to go before the courts. For example, Abdul Belhaj, the Islamist opponent of Libya’s Muammar Gaddafi, has initiated a civil case against the British government and three officials for “extraordinary rendition.” Just last week, he offered to call off the proceedings in exchange for just £3 in damages and an apology from the British government.

The High Court proceedings, if pursued, would see officials called to give evidence under oath and admit the truth that the British intelligence services were complicit in his illegal kidnapping in Thailand, rendition to Libya, brutal torture, and imprisonment

until 2010. Ministers, including Jack Straw, the then Labour foreign secretary, and Sir Mark Allen, then head of intelligence agency MI6, had for years explicitly denied allegations of wrongdoing.

The same Belhaj, a former leader of the anti-Gaddafi Libyan Islamic Fighter Group (LIFG) and military commander of Tripoli, along with other ex-LIFG members, was then used in NATO's proxy war against Libya. He was hailed by the British government as a "freedom fighter" who must be supported by the West with finance, arms and intelligence to depose Gaddafi.

Belhaj said he was making the offer to rebut the accusation by the Conservative-Liberal Democrat coalition government that he was suing the British government for financial gain at the expense of national security. He has always refused to agree to an out-of-court financial settlement, insisting that he has pursued the case because he wants the British government to admit its links with the Gaddafi regime. The British government has refused to comment on Belhaj's offer to settle the case.

The security services are determined to ensure that the courts will never again be able to test the claims of officials or politicians and bring embarrassing evidence about their wrongdoing out into the open.

As these cases demonstrate, the entire state machinery is guilty of criminality: torture, abduction, extraordinary rendition and the denial of due process. More fundamentally, they are the direct outcome of a broader criminal enterprise—the commissioning of illegal wars of aggression against Afghanistan and Iraq and the no-less-criminal sponsoring of "regime change" in Libya, and now Syria.

That the government is introducing such legislation testifies to its plans for further criminality, including supporting and arming Al Qaeda-linked outfits as part of the US-led scheme to stoke up a vicious sectarian civil war and install a client government in Syria, prior to regime change in Iran.

Not only is the Justice and Security Bill aimed at preventing the exposure of the government's crimes overseas, but it also portends the use of the same methods at home to deal with the growth of working class opposition to social inequality and ever-worsening living and working conditions.

The contents of the Bill are not widely known, and there has been little discussion of it in the media, which

is testimony to the lack of genuine opposition to the government's plans by the Labour Party and its supporters among the trade unions and pseudo-lefts.

While Labour tabled several very weak amendments aimed at introducing conditions for secret courts and giving judges the power to balance the interests of national security against "public interest in the fair and open administration of justice," these in no way challenged or rebutted the legislation as a whole, and were voted down by the government's supporters.

Clare Algar, executive director of Reprieve, the human rights advocacy group that supports prisoners and Guantanamo Bay detainees, said, "This has been a dark night for British justice" and called on MPs to "vote against the bill altogether if they want to defend British justice".

Shami Chakrabarti, director of the civil liberties group Liberty, could only offer a bankrupt appeal to their Lordships in the House of Lords. "The opposition to turning British courts into secret commissions continues. Once again, we look to the House of Lords to defeat secret courts and defend the rule of law," she said.



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