
THE CRIMINAL JUSTICE SYSTEM IN ENGLAND AND WALES 2025

R. W. M. Dias once wrote that “*various bodies who bring criminal laws must be open to scrutiny.*” He emphasised the critical need for accountability and oversight in the formation and enforcement of criminal law. Currently, those working within the Criminal Justice System have no choice but to consider how it came to find itself in its current state with overcrowded prisons, backlogs and delay. As former Director of Public Prosecutions (“DPP”); UK Independent Reviewer of Terrorism Legislation; former Chair of the Criminal Bar Association, Leader of the South Eastern Circuit; and, most pertinently, former Head of Red Lion Chambers, **Sir Max Hill KC’s** [views](#) on the current state of ‘*The Criminal Justice System in England and Wales 2025*’ was an opportunity not to be missed.

With Dias in mind, Sir Max started by identifying the five sure bodies that are the origin for new criminal law:

- a. The government of the day via their manifesto commitments (although these have often withered away once a party has come to power);
- b. The Home Office;
- c. The Ministry of Justice;
- d. Judges (in how they interpret the law and their influence on policy); and
- e. Campaigners (e.g. NGO’s and pressure groups).

It was made clear that there is no single mechanism in which the law comes to be. Considering these routes, he then introduced his ‘Top Ten’ of recent legislation in no order of preference. This included the Female Genital Mutilation Act 2003 which is an excellent indication of how the law can create change in a good way, and reach the sections of society that do not necessarily receive the forefront of attention. He

emphasised that this is not a migrant issue: it is happening to British citizens. The first criminal prosecution happened 16 years after the Act. The second took another 4 years, happening in 2023. The first FGM conviction of a man only happened in 2024. Sir Max, a proud Patron to [The Vavengers](#), highlighted that this legislation is evidence of the law moving in the right direction.

Sir Max also included his views on ‘knee-jerk’ pieces of legislation, such as the Terrorism Act 2006, a reaction to the 7/7 London Bombings. A reactive raft of offences were passed, preventing a single understandable bill. As a result, practitioners in this area of law are left with an unideal thicket.

Criminal law was also explored thematically. It is undeniable that two of the most prominent developments include Brexit and COVID. The former demonstrated how overnight, lawyers moved from one unilateral relationship, to 27 bilateral relationships throughout the Union. It left at least three gaps in what England and Wales needed from the EU: evidence; suspects and proceeds of crime.

COVID was perhaps the most historically significant event in placing emergency rules and temporary legislation. Police raids and lockdown party fines seem, as Sir Max aptly put it, “a bad dream now”. However, the repercussions of COVID remain strong today, for example, through the single justice procedure. However, there were some positive outcomes too. The case of [Anne Sacoolas](#) is one example. Mrs Justice Cheema-Grubb agreed to deal with the case through a remote sentencing hearing, which provided some measure of justice. This reminded participants of a recurring theme: justice can be delayed, but it should never be denied.

Finally, Sir Max talked about significant and high-profile cases that he encountered in the four phases of his career. Phase 1 (1987-2017): when Sir Max was in practice (with 20 years as a junior and 10 in silk). Notably, he discussed how, during this time, marital rape, which became illegal only in 1991, was emblematic of the wide inequality between men and women in society. Phase 2 included his work as the UK independent Reviewer of Terrorism Legislation for five months in 2017. These were arguably the deadliest months

to date including incidents such as those that happened in London Bridge, Finsbury Park, Manchester Arena and Parsons Green. Self-radicalising was a part of this conundrum. It is clear that the problem still exists. It is, however, unclear if we have reached a better place now. Phase 3 (2018 – 2023) included his work as DPP. In this phase, Sir Max included the positives of the double-jeopardy jurisdiction. Finally, Phase 4, as he stated, has been ongoing since 2024.

In a recent article for [Counsel Magazine](#), Sir Max reflected: *“I have been immensely lucky in so many ways, but it all stems from early years plugging away in court, trying to become the competent advocate I dreamed about all those years ago. The Bar has been the foundation of my entire career, and it continues to sustain everything I do”*. As a barrister in my early years at court, hearing the views of one of the UK’s distinguished barristers, and former Head of Chambers at such a significant time for the Criminal Justice System was a privilege. At a time when the system feels overstretched, Sir Max’s message echoed with Dias’ call for accountability and scrutiny. All of those that are involved with shaping the law in some way must remain open to challenge and reflection. For anyone with an interest in the current state of criminal justice, this [lecture](#) is essential viewing.

Vithyah Chelvam
Probationary Tenant
Red Lion Chambers