

Britain: government unveils draconian "anti-terror" bill

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Home Secretary David Blunkett unveiled his proposed Anti-terrorism, Crime and Security Bill Tuesday. The sweeping and draconian character of the measures it contains refutes the claim that they are aimed at ensuring the security of the population from terrorist attack. The bill's aim is to enable the government to impose long-sought restrictions on civil liberties.

The bill, which is to be rushed through all its parliamentary stages before Christmas, amends numerous existing acts, including the Terrorism Act 2000, the Biological Weapons Act 1974, the Chemical Weapons Act 1996, and the Public Order Act 1986. Originally said to contain 40 clauses, the completed draft has grown in the telling to 125. It gives the state a variety of new powers for use against those suspected of involvement in terrorist-related activity and includes laws on communication data that effectively overturn an individual's right to privacy.

At the heart of the new bill are significant changes to laws governing the rights of asylum seekers and foreign nationals.

It was specifically to enforce these measures that Blunkett declared a state of emergency on Monday. The Home Secretary described his extraordinary measure as a "technicality" enabling him to derogate Article 5 of the European Convention on Human Rights. Only incorporated into British law earlier this year, the Convention forbids the detention of any foreign national for any length of time unless he is to be deported or tried. The Convention also forbids the return of a foreign national seeking refuge in Britain to a country where he may suffer "degrading treatment".

Not only does the Convention no longer apply due to the state of emergency, but Blunkett's measures empower the British state to detain foreign nationals without charge for an indefinite period and to deport suspect foreign nationals without recourse to existing asylum and immigration procedures.

Clauses 21 to 34 cover immigration and asylum and apply retrospectively to those already granted leave to remain in the country. They enable the home secretary to issue an international terrorist certification against any foreign national thought to be involved in planning or conducting terrorist offences, having links to any such person or being a member of an organization deemed as terrorist. The legislation provides for a group to be designated as foreign terrorists if it is "subject to the control or influence of persons outside" the United Kingdom and the home secretary suspects that it may be involved, in any way, "with possible or actual acts of terrorism".

A person certified as such can then be interned without charge

for up to six months, and then brought before a Special Immigration Appeals Commission (SIAC) chaired by a High Court judge. Reminiscent of the notorious no-jury Diplock courts used by the British military in Northern Ireland, the hearings will be held in secret with the suspects denied the right to hear the evidence against them. The accused and their lawyers may be excluded from parts of the hearing. Should the special court agree that the home secretary's certification has a basis, it must immediately reject any asylum appeal before dealing with the substance of the charges against the detained person.

The SIAC is also the only body to which an interned foreign national can appeal against certification. It is also the only body entitled to "entertain proceedings for questioning" the home secretary's action, and the only court able to hear appeals against derogation of the Human Rights Convention.

Over the recent period the government has been continuously frustrated that its efforts to overturn asylum appeals and carry out summary deportations have fallen foul of the law, leading it to campaign internationally for changes to the Geneva Convention covering the right to asylum. The new bill ends the necessity for the government to go through lengthy international and legal wrangles, enabling it to significantly curtail the rights of immigrants and asylum seekers under the cover of the September 11 terrorist atrocities.

The bill also expands the power of the Terrorism Act 2000 by enabling the property or cash held by an organisation deemed as terrorist to be sequestered. This can be enacted whether or not the organisation is subject to any criminal proceedings. The property or assets of any person, organisation or country making funds available to or for the benefit of "terrorist suspects" may be subject to a freezing order if the UK Treasury believe the latter may be involved in "action to the detriment" of any part of the UK economy, or constitute a threat to the life or property of at least one UK national.

Clauses 101 to 105 covering data retention by communication service providers are in addition to the already restrictive Regulation of Investigatory Powers Act (RIP Act) which was passed last year and is due to be fully implemented by the end of 2001. The RIP Act provides for police agencies to access communications data without a court order for the purposes of criminal investigation, protecting public health and safety, tax collection and matters of national security.

Amendments introduced in the new bill will enable the

government to implement those measures that it was previously unable to get through in the RIP Act due to concerns over their implications for civil liberties.

Under a “voluntary code of practice” drawn up by the home secretary, communication service providers must retain information on their customers for possible use by police and other law enforcement agencies. Directly contradicting the supposedly voluntary character of this arrangement, clause 102 states that the home secretary will be able to force communications services to comply.

Data retained will include an individual’s geographical location, determined through his mobile phone; sender and recipient details on emails; a complete log of a person’s Internet sessions, including his IP address; and the address of all web sites he has visited. Communication service providers are currently only able to retain such information for billing purposes, after which it must be destroyed.

The bill bans publication of details on nuclear power plants and the transportation of nuclear materials, whether or not a person intended to prejudice security in making the disclosure. Campaigners protesting at the safety of nuclear plants or attempting to stop the transport of radioactive waste and other materials could be charged with endangering national security and imprisoned for up to seven years.

Bizarrely, the bill makes it an imprisonable offence for any UK national to carry a nuclear weapon, or attempt to make or transfer one! To cover all possible bases, the bill specifies that this charge can be brought whether the UK national is at home or abroad and that a “nuclear explosive device” includes one that “is not intended for use as a weapon”. In contrast, the British state is expressly allowed to authorise the use of nuclear weapons. The bill sets out that the government may give the say so for their use “in the course of an armed conflict” and “in such manner and on such terms” as it sees fit.

All businesses and premises holding toxic substances or disease pathogens that could be used in a terrorist attack are to supply police with personal information on those people with access to the materials, and are to be subject to police checks.

The bill grants wider, unspecified power for the secret services to carry out “intelligence gathering” outside Britain.

Several clauses extend the jurisdiction of the Ministry of Defence police, UK Atomic Energy Authority police, and the British Transport police. These are to be given the same powers as normal police officers when they are requested to participate in any investigation. Police officers will also be empowered to stop, detain, question and search aircraft passengers and to arrest anyone refusing to leave an aeroplane.

The bill will also reintroduce the infamous “sus” laws used to harass working class youth and minorities in inner-city areas during the 1980s. Under Clause 95, a police officer may stop and search any person or vehicle if he suspects serious incidents may occur within the local area, or if he “reasonably” believes he may find weapons or equipment to be used in the commission of a crime. Under Clause 93, any person stopped by a police officer and required to remove “any item” that the officer believes may be used to disguise identity can be imprisoned for one month for

failing to do so.

Again, the clauses do not apply only to suspect terrorist activity. Nor do those clauses in Part 10 of the bill, enabling police officers to carry out fingerprinting, searches and the photographing of a person arrested, where it is deemed necessary to establish his identity. These can be conducted irrespective of whether the person has been charged with an offence, and against his expressed wishes.

The bill overturns existing barriers preventing Customs and Excise and Inland Revenue officials from passing on information on an individual to police agencies. The disclosure of previously confidential information is to apply in any instance where it is considered important to a criminal investigation—again, not only in the case of suspected terrorist activity—or in deciding whether to instigate such proceedings.

The government has also announced it will delay a substantial part of the intended Freedom of Information Act, governing the public right to information, until 2005.

The proposed measures create a myriad of other offences, including imposing a seven-year prison sentence on anyone carrying out a hoax involving the threat of noxious substances. The law against incitement to racial hatred is to be extended to religious hatred, also to be punishable by seven years imprisonment. This charge also applies to plays or recordings which could be deemed to be offensive to one or another religion.

Perhaps the clauses that prove most conclusively that the proposed bill is motivated by more fundamental political and social concerns than combating terrorism are those enabling the government to bypass Parliament on European Union legislation. Part 13, Clause 109 will enable an “authorised minister” to enforce EU legislation concerning the pooling of judicial and police powers Europe-wide, and a common immigration policy, including matters concerning freedom of movement by EU nationals. An “authorised minister” is designated to be the home secretary, lord chancellor, the Treasury, the Welsh Assembly, Scottish and Northern Ireland first ministers and deputy first ministers.



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