

Britain: Senior politicians condemn internment of foreign terrorist suspects

Richard Tyler
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A committee of senior politicians has called for anti-terror legislation permitting indefinite detention without trial to be replaced.

Rushed through parliament in the aftermath of the 9/11 attacks, the Anti-Terrorism, Crime and Security Act 2001 (ATCSA) permits the internment of foreign nationals on the word of the home secretary, without the need to present criminal charges or to follow due legal process.

This power was granted under Part Four of ATCSA, which rescinds that section of the European Convention on Human Rights prohibiting detention without trial. The Privy Counsellor Review Committee noted, “Other countries have not found it necessary to have any such derogation and we have found no obvious reason why the UK should be the exception.”

The committee, including former government ministers from both the Conservative and Labour parties, said the shortcomings in the legislation were “sufficiently serious to strongly recommend that the Part Four powers which allow foreign nationals to be detained potentially indefinitely should be replaced as a matter of urgency.”

The Privy Counsellors are concerned that the “war against terrorism” is undermined in the public eye unless at least a veneer of democratic rights is maintained. While they object to the indefinite internment of those accused of terrorism, they are quite prepared to countenance new laws applicable to all, which permit evidence previously inadmissible in British courts, such as material obtained by secret phone taps.

Commission chair Lord Newton said, “The terrorist threat to the United Kingdom is likely to need a body of anti-terrorist law for some time to come.”

Home Secretary David Blunkett, who has certified 17 individuals as “suspected international terrorists” under the act, incarcerating 14 foreign nationals in high security prisons, rejected the criticisms, saying, “I am not convinced that the current threat leaves us with any option

but to continue to use these powers.”

Those detained under ATCSA in Belmarsh and Woodhill prisons are kept locked up for 23 hours a day in what human rights organisation Liberty has called “Britain’s very own version of Guantanamo Bay.”

Amnesty International accuses the government of creating a “shadow criminal justice system for non-UK nationals that fails to meet international standards for a fair trial.” Amnesty’s UK Director Kate Allen said, “The act is discriminatory—there is one set of rules for British citizens and another for nationals of other countries.”

Those detained under ATCSA enter a Kafkaesque world where they are imprisoned—potentially indefinitely—without being told of any charges against them, based on secret evidence that they are not permitted to see, without recourse to independent legal representation or due legal process.

In May ten of the detainees had appeals against their detention turned down by the Special Immigration Appeals Commission (SIAC). This body, set up under the act, is not a court where publicly presented prosecution evidence can be tested by legal counsel representing the accused. It functions more like a Star Chamber, conducting parts of its business in camera, with both the detainee and his government-appointed “Special Advocate” excluded. Should the Special Advocate be shown any of the secret evidence, he or she is prohibited from discussing it with the client without the express permission of SIAC.

Amnesty International observers who attended the open SIAC sessions noted that the standard of evidence accepted was even lower than in civil cases, where a conviction is only possible when it can be established “beyond a reasonable doubt” that a crime has been committed. For SIAC, “The standard of proof is below a balance of probabilities.”

Not only were parts of the hearing held in private, but

those parts of the judgement that dealt with the secret evidence were also delivered in closed session.

According to Amnesty, the Crown repeatedly made it clear that “none of the internees could be convicted of a criminal offence in a UK court, because the material adduced would not be admissible in a normal trial, as it would most likely consist of hearsay evidence or an identified informant and/or intercepted material, which may have been illegally obtained.”

This includes statements that have been extracted under torture in Afghanistan. In anonymous testimony to SIAC, an MI5 agent said that evidence obtained using torture could be assessed by MI5 as reliable. SIAC then ruled that such evidence was admissible—“it may well appear that to admit such evidence would result in unfairness. But it does not in our view justify the conclusion that the information obtained from a third party by methods which breached Article 3 [of the European Convention on Human Rights, prohibiting torture] is inadmissible.”

The anti-terror legislation has been used to conduct a police dragnet, with over 500 arrests of “terrorist suspects”. Of these only 77 have ever been charged under the legislation and only seven convicted in the courts. In all cases those jailed have not been held for committing or even commissioning acts of terrorism, but for membership of proscribed organisations—such as the Kurdistan Workers Party and the Tamil Tigers—or of fundraising for such organisations.

The overwhelming majority of those swept up in this process have been Muslims, leading to criticisms from community groups that a form of “racial profiling” is in operation.

Of the 14 foreign nationals still interned under ATCSA, six have now been kept under lock and key for two years. According to a recent *Observer* article, at least half of the detainees are showing signs of serious mental illness and several have been moved to Broadmoor high security mental institution.

Leading civil rights lawyer Gareth Peirce, whose firm represents many of the men, said, “They have now been pushed beyond the limits of human endurance. All these men are refugees and a number are torture victims. It is well-established that victims of torture should not be confined, because this can trigger former trauma.”

A North African detainee, who has suffered with polio since childhood, is causing particular concern. His mental health is said to have deteriorated to such an extent that he is no longer able to recognise or communicate with his fellow inmates. While he is unable to walk, the prison

authorities have refused to provide a wheelchair or to accept the inmates’ offer to carry him to attend prayers.

Another detainee, Palestinian Abu Rideh, has been transferred to Broadmoor. He is accused of being a fundraiser for terrorist purposes and involvement with associates of Osama bin Laden. In a recent letter to *The Guardian* newspaper, he denies the allegations and says that he hates terrorism.

He describes being arrested without warning or explanation at his home in Surrey in December 2001, two months following the 9/11 attacks. “The British security services arrested me at 5.30 in the morning. They broke the door while I am sleeping and scared my children—I have five children between the ages of three years and nine years.”

“At 7 o’clock in the morning they told me that you are going to stay all your life in Belmarsh. There is a unit inside it; it is like a prison in the prison. They put me alone in a small room where you face bad treatment and racism and humiliation and biting and swearing.”

Matthias Kelly QC, chair of the Bar Council, told the press, “I am completely opposed to the use of internment. If the Government has the evidence, why does it not have the confidence to put it up in court?”

The Blair government claims that the “war against terrorism” is necessary to defend democracy and liberty. In pursuit of this end, it has abrogated the European Convention on Human Rights, and locked up men based on evidence extracted in breach of the Convention against Torture. Gone is the presumption of innocence, a cornerstone of modern jurisprudence, the right to a public hearing of the evidence and to independent legal representation. Over 300 years since the Star Chamber was abolished on the eve of the English Civil War, the Blair government has reinstated the arbitrary powers and abuse of process that made it the hated symbol of despotic rule.

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Reference:

Amnesty International, *Justice Perverted*, December 2003



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