

Britain: house arrest proposals widely criticised

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In Orwell's chilling vision of totalitarianism, a state of perpetual war is used to justify the abolition of civil liberties and the surveillance of every citizen. Some two decades from the notional setting of *1984*, the same justification can be heard—just substitute the “war on terrorism” for Orwell's fictional war between Oceania and Eurasia/Eastasia.

At the end of January, Home Secretary Charles Clarke announced plans to introduce “control orders” enabling the detention of alleged terror suspects under curfew at home, the electronic tagging of suspects, bans on the use of phones and the Internet and strict prohibitions on the meeting between such a suspect and other individuals. Clarke justified this abrogation of civil liberties by saying, “We are in a state of emergency.”

The “control orders” would be implemented on the word of the home secretary, a politician, and be subject to only cursory judicial scrutiny. The proposed measures share much in common with the “banning orders” that were infamous under the apartheid regime in South Africa as a means of isolating those who were opposed to the racist system.

That the government is minded to extend the use of “control orders” to a wider range of potential suspects was revealed by Clarke's adviser, Stephen McCabe. The Labour MP told the *Scotsman*, “We can envisage this applying to animal rights extremists and the far-right, for example.”

New Labour's proposals have met with widespread criticism.

Law Society President Edward Nally said it was “an abuse of power to place people under house arrest without evidence of criminal activity.”

“The government has said that prosecuting suspects is their preferred option. It should be the only option when individuals face losing their liberty,” Nally added.

The human rights group Liberty said suspects should be put on trial, rather than face “control orders” that required a very low standard of proof. “There are serious human rights concerns about the new measures and their extension to every British national,” a Liberty representative said.

Leading barrister Ian Macdonald, QC said, “At the end of the day if you're going to keep people in some sort of house arrest or in prison, you really have to take account of what I think is a fundamental principle, that people are presumed innocent.”

Amnesty International's UK director, Kate Allen, said the government was “sidestepping the law courts, still detaining people on secret evidence; only people will now be detained in their homes rather than at Belmarsh prison.”

“However he puts it,” Allen added, “the home secretary is giving himself the power to place anyone in the UK under house arrest, without charge or trial, based on secret evidence—UK citizens included.”

Criticism of the “control orders” has also come from some Labour MPs, as well as the opposition Conservative Party and Liberal Democrats. Tory leader Michael Howard has said the Conservatives would oppose government plans to hold alleged terror suspects under indefinite house arrest. Instead, Howard has called for changes to the law so that so-called “intercept evidence”—obtained through phone-taps, bugs and other covert means—would be admissible in court. Britain is one of the few western countries where such evidence cannot presently be used in court.

The new Commissioner of the Metropolitan Police,

Britain's most senior police officer, Sir Ian Blair has also supported calls for the admissibility of phone-tap evidence, telling the press this would make policing "much easier".

Clarke has so far opposed changing the law to permit the use of phone-tap evidence, arguing, "it provides only part of the intelligence against individuals, and sometimes a small part." Moreover, the government is concerned that accepting such evidence in court may expose the covert means by which the state spies on its citizens.

Prime Minister Tony Blair has agreed to meet Howard, to discuss how a "consensus" may be reached, ahead of plans by the opposition parties to introduce an amendment to the Serious Organised Crime and Police Bill this week to permit the use of intercept evidence.

The atmosphere of panic that surrounded announcement of the plans for "control measures" was exacerbated last week, with the unconditional release of another alleged foreign "terrorist" previously held under the 2001 Anti-terrorism Crime and Security Act (ATCSA).

In December 2004, the Law Lords ruled that the indefinite detention of such foreign "terror suspects" without trial was unlawful. Some 14 individuals were originally detained under ATCSA, most being held in Belmarsh prison, dubbed Britain's Guantánamo. The men were held on the basis of secret evidence and denied the ability to defend themselves in open court.

Ian Macdonald, QC, who resigned last year from the legal panel representing the detainees held in Belmarsh prison, said the release of the prisoner, known as "C", raised serious concerns. "One minute people are dangerous and the next week they are not," he told BBC radio.

Three other men currently being held under the 2001 legislation have refused to accept their release under onerous bail conditions that are tantamount to house arrest. They would also have been banned from using the phone and receiving visits from friends.

On Monday, February 7, the government suffered a further setback when its legal effort to return a foreign terror suspect to jail was defeated.

A secret court sitting in London rejected the home secretary's argument that "G", a 35-year old Algerian man released from Belmarsh under conditions of house arrest in April on the advice of psychiatrists, had

broken the terms of his release by receiving two "unauthorised" visitors at his London apartment.

In court, G's solicitor Gareth Peirce accused ministers of "mental torture" in their treatment of her client. The Special Immigration Appeal Commission ruled that Home Secretary Clarke had not proven his case and that it would "take no action towards the revocation of bail".

In 2001, a "technical state of emergency" was declared to justify Britain's derogation from sections of the European Union's Convention on Human Rights, so that foreign "terror suspects" could be detained indefinitely without recourse to the courts.

Like Oceania, it would appear that Britain is now in a perpetual state of emergency.



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