

Britain: house arrest legislation a fundamental attack on democratic rights

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4 March 2005

The Labour government's Prevention of Terrorism Bill constitutes a fundamental attack on the democratic rights that have existed in Britain for hundreds of years.

On the pretext of combating the threat from terrorist groups associated with Al Qaeda, the government is set on granting itself powers that go further than the notorious "banning orders" employed by the Apartheid regime in South Africa to silence and isolate its political opponents.

The bill looks set to pass into law, and is being steamrollered through Parliament in less than two weeks, by curtailing the time available to debate and scrutinise the proposed legislation.

Introducing the bill in the House of Commons on February 23, Home Secretary Charles Clarke asserted that new powers were necessary because Britain "faces substantial and real threats to the freedoms of institutions and people in our society that are qualitatively different since 11 September 2001."

The real threat to freedom comes from the government of which Clarke is a member.

The bill marks a break with the fundamental legal principle of the presumption of innocence—described by the human rights group Liberty as "the 'golden thread' that runs back through centuries of criminal process to the Magna Carta."

The measures that can be implemented if the bill passes into law include: house arrest, electronic tagging, deprivation of a passport and other travel restrictions, prohibition from using telephones and the Internet, being proscribed from associating with certain people or from carrying out one's trade or profession.

Due process and legal precedent are no longer deemed sufficient to secure the imprisonment and punishment of those associated with Al Qaeda, which Clarke described as a network that wanted to "destroy tolerance ... to destroy free discussion and freedom of opinion ... to destroy equality for women" and, for Clarke at least, most terrible of all, "to destroy our market economy."

The home secretary went on to claim that Al Qaeda was

"prepared to use biological, chemical and nuclear warfare to poison water supplies and to destroy whole systems of life—mass murder that is utterly different in its scale and impact from any previous terrorism."

One is reminded of the statement of Nazi leader Herman Goering on trial for war crimes telling the court in Nuremberg, "The people can always be brought to the bidding of the leaders. That is easy. All you have to do is tell them they are being attacked and denounce the pacifists for lack of patriotism and exposing the country to danger. It works the same way in any country."

Once again an unproven and highly exaggerated threat is being utilised to force through a reactionary political agenda. Clarke offered no evidence to demonstrate that Al Qaeda has the ability to carry out such actions. Aside from the attack on the Twin Towers on 9/11, which utilised hijacked planes, no grouping associated with Al Qaeda has ever had access to, or utilised anything other than conventional explosives and weaponry. Clarke himself was forced to acknowledge that the proposed measures are not needed for anyone currently under suspicion or detention.

Justifying the claim that the proposed powers would be used "sparingly", Clarke noted that between September 2001 and December 2004 "there were 701 arrests under the Terrorism Act 2000; 119 of those arrested were charged; and 45 of those 119 were charged with other offences as well. A further 135 were charged under legislation other than the 2000 Act, and 17 were then convicted of other offences."

Clarke's statement only confirms how anti-terror legislation is used to target broad numbers of mainly Muslim men for arrest. Most have been released without charge or were convicted of unrelated offences. The new legislation would broaden the scope for such trawling operations, while enabling more people to be detained without conviction.

The home secretary avoided mention of how many have actually been found guilty of terrorism. But a report by the Institute of Race Relations noted that out of 609 arrested between September 2001 and September 2004, only 15 were subsequently convicted of terrorism-related charges of any

kind—mainly fundraising for groups active overseas.

Labour wants the home secretary to be able to impose a control order where he has “reasonable grounds” for suspecting an individual is involved in “terrorism-related activity”. This is a far lower legal standard than that required when considering a custodial sentence for an actual crime, where a jury must be convinced “beyond reasonable doubt”.

The new offence of terrorism-related activity includes conduct which “facilitates” or “gives encouragement” to those carrying out or planning acts of terrorism, or which “provides support or assistance” to individuals who are “known or *believed*” to be involved in terrorism-related activity (emphasis added). Such an open-ended clause offers wide possibilities for the arbitrary detention of those the state would like to lock away without evidence.

The scope of such control orders is left to the whim of the home secretary, who may “impose *any* obligation on the individual against whom it is made” (emphasis added).

A control order can impose a form of internal exile, since it can restrict a person’s movements “to, from or within the United Kingdom, a specified part of the United Kingdom or a specified place or area within the United Kingdom.”

The restrictions placed on the subject of a control order are more draconian than those facing conventional prisoners, who can speak to anyone. The home secretary can impose a control order on an individual, based on secret evidence that not even the defendant and his legal representatives are allowed to view. Such an order might forbid him from speaking to the press about his case. If he sought to publicly protest his innocence, in breaching the control order he could become liable for imprisonment. Anyone breaching a control order in any way would be guilty of a criminal offence and could be imprisoned for up to five years.

The government has faced little serious opposition to its proposals. From the start, the Conservative Party has stressed its desire to reach unanimity with Labour on the need for new anti-terrorism legislation. It offered to support the extension of existing powers, which Britain’s highest court, the Law Lords, ruled last November was discriminatory and disproportionate as it was only applicable to foreigners and because the open-ended nature of the custody did not meet normal legal principles.

Both the Tories and the Liberal Democrats have focused on the demand for judicial control of the most stringent of the new measures. The government found it easy to make a minor concession to these criticisms, agreeing that judges would have to approve house arrest orders. But this was coupled with an announcement that the home secretary would now seek to give police “a new and specific power” to arrest and detain a suspect while a judge decided the issue.

The government has also been aided in its drive to impose the new legislation by the feeble protest it faced from Labour backbenchers. Only 32 Labour MPs voted against the substantive motion on the bill.

The claim that judicial oversight will act as an impediment to abuse of the proposed anti-terror measures is without foundation. When asked in parliament by Labour MP Tam Dalyell, “in which other democracies are people locked up without charge and without trial?” Clarke replied, “That happens in France, Spain and Italy, for example, under a different legal regime.”

The example of France is instructive. Far greater numbers have been arrested on terrorism charges there than in Britain under a system that is under the control of specialist judges. Police have arrested hundreds indiscriminately and often violently using a catch-all charge of “conspiracy in relation to terrorism”, of which some have spent up to four years in preventive detention before facing trial.

The immediate political impact desired by the government in advancing the new anti-terror legislation is to whip up a climate of fear in the run-up to an expected May general election. Blair hopes to emulate his political mentors in the US, who utilised similar tactics in securing a second term for President Bush last November.

But more is at stake than simply electioneering. Using the pretext of alleged terrorist threats, Labour is sweeping away longstanding civil liberties protecting individuals from arbitrary detention. And its abrogation of the presumption of innocence, although initially directed against supposed terrorist suspects, establishes a precedent that facilitates ever more authoritarian forms of rule.



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