

Council of Europe condemns British government on human rights

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The Council of Europe Office recently released two reports criticising the British government of Prime Minister Tony Blair for its worsening human rights record. The 46-nation Council of Europe regularly reports on its members' compliance with the European human rights convention. It is a separate and older body than the European Union.

In June, Alvaro Gil-Robles, the Council of Europe's Human Rights Commissioner, reported on his visit to the United Kingdom from November 4-12, 2004. The second report was issued the same month by the Council of Europe's Committee for the Prevention of Torture (CPT).

The CPT visited 12 alleged terror suspects detained at Belmarsh and Woodhill prisons and Broadmoor high-security hospital in the UK in February 2002 and March 2004. The detainees were being held without trial under the remit of the repressive Anti-Terrorism Act 2001. The CPT report stated that the conditions in which some detainees were being held "could be considered as amounting to inhuman and degrading treatment."

The publication of the CPT report has its own somewhat sordid history. The government originally received the report in July 2004, but then blocked its publication for almost a year whilst detainees held under the anti-terror law sought to challenge the lawfulness of their imprisonment.

The report by Human Right Commissioner Gil-Robles is the more detailed of the two and covers a number of areas documenting his concerns over Britain's human rights record.

He says that he "was struck by the frequency with which he heard calls in the UK for the need to rebalance rights protection, which, it was argued, had shifted too far in favour of the individual to the detriment of the community." He adds that he identified "criminal justice, asylum and the prevention of terrorism as targets of such rhetoric." In fact, "there have been a series of measures" introduced that often are on the very limits and occasionally overstep what "respect for human rights allows," he states.

In this regard, Gil-Robles deals with the use of control orders under the Prevention of Terrorism Act 2005. The orders enable the government to impose a wide range of restrictions on individuals suspected of terrorist-related activity. These can range from house arrest to electronic tagging, prohibitions from

meeting certain individuals, restrictions on travel and bans on using telephones or the Internet.

A control order can only be imposed by the secretary of state but must be referred to a court, which has to decide if the order was arrived at reasonably. Even if the court disagrees with the secretary of state's assessment, it is obliged to approve it.

Gil-Robles states that he is not opposed to control orders in principle, which "may be justified in the event of a clearly identified danger." He notes, however, that "quite apart from the obvious flouting of the presumption of innocence, the review proceedings described [governing the use of such orders] can only be considered to be fair, independent, and impartial with some difficulty."

The commissioner also devotes a section of his report to the practice of relying on evidence obtained through torture in determining whether someone is involved in terrorist-related activity. A ruling by the UK court of appeal in 2004 allows such evidence so long as it was not extracted by, or with the connivance of UK agents. Gil-Robles states, "This view is difficult to reconcile with the absolute nature of the prohibition of torture in Article 3 of the ECHR [European Court of Human Rights]; torture is torture whoever does it, judicial proceedings are judicial proceedings, whatever their purpose—the former can never be admissible in the latter."

Some of the strongest criticisms are made in regards to what has been the main plank of the Blair government's law-and-order agenda—its offensive against immigrants and asylum-seekers, and some of the poorest and most oppressed layers of the population.

As regards asylum, the report raises concerns over the widespread use of detention in the UK, noting that by the end of 2005 there will be an estimated 2,750 available spaces in nine removal centres which hold individuals pending their deportation. Two of these centres hold asylum-seekers whose applications are considered in fast-track proceedings. The latest figures available to Gil-Robles at the time of publication of his report were recorded on December 25, 2004 and show that 1,515 asylum-seekers were detained on that day.

He also cites his concern that many asylum-seekers were being detained for too long before being eventually deported. This was the case particularly with children, "who should be

deprived of their liberty only as a last resort and for the shortest appropriate period of time.”

At Dungavel Removal Centre in Scotland, of the 1,514 asylum-seekers detained on December 27, 2004, 55 had been detained for between four and six months, 90 for between six months and one year and a further 55 for over one year.

The report makes clear that many asylum-seekers do not have proper legal representation—a situation exacerbated by the government’s new rules restricting free legal aid to five hours per case, which is “of particular concern in respect of the deprivation of liberty.”

Dealing with Anti-Social Behaviour Orders (ASBO’s)—civil orders banning an individual from certain behaviour—the report notes that these have increased dramatically from 200 in 1999-2000 to 2,600 in the first nine months of 2004. Many of these are served on children as young as 10.

The report states, “The ease of obtaining such orders, the broad range of prohibited behaviour, the publicity surrounding their imposition and the serious consequences of breach all give rise to concerns.” The ASBO is a civil order, but “the House of Lords has confirmed that the standard of proof applicable for the determination of anti-social behaviour is the criminal standard of proof—which is to say beyond reasonable doubt.”

As well as criticising the fact that ASBOs are generally meted out as a punishment far out of proportion to the supposed “crime” committed, the commissioner also states his disapproval at the punishment doled out to those who breach an ASBO. This can be up to five years in prison, which he describes as “an extremely heavy punishment for behaviour that is not recognisably criminal.”

As mentioned previously, the CPT report focused on the treatment of those detained as suspect terrorists, with particular attention to the mental and physical wellbeing of the detainees.

Many of these were in a poor mental state as a result of detention, the report found, and others were also in a poor physical condition. “For some of them, their situation at the time of the visit could be considered as amounting to inhuman and degrading treatment,” the report states.

The CPT noted that several of those held at Belmarsh required urgent psychiatric treatment and needed to be moved to other facilities that could provide such assistance and support.

One detainee referred to as “P” was observed by the CPT. This detainee “suffered from a disability (amputation of both forearms) that prevented him from urinating or defecating unaided. However, he did not always receive the necessary assistance. Moreover, his mental state had deteriorated seriously as a result of his detention, leading to both severe depression and post-traumatic stress disorder.”

The CPT described the condition of the detainee as so serious that “psychiatric treatment for this detainee—which must not be delayed any longer—was both an acute, life-saving measure and an essential prerequisite for any rehabilitative effort.”

These cases, along with that of another detainee, were reported to the UK government as requiring immediate attention and needed to be acted upon within two months. The CPT criticised the government’s response that facilities at Belmarsh were sufficient to deal with the detainees’ needs.

Describing the regime at Belmarsh as “excessively rigid and carceral” combined with “the austere and extremely noisy physical environment,” the CPT said that the prison’s health centre was a “very unlikely setting to offer the level of care and special treatment necessitated by the current state of health of many of the ATCSA detainees.”

The report again called on the government to remedy this intolerable situation.

The committee also found evidence at Belmarsh Prison of ill treatment by staff of detainees, including “threats, abusive or aggressive language and mockery.” It recommended that such practises end immediately.

The conclusions of the CPT report were rejected by the government when it finally agreed to its publication. It stated that those held in detention had received “humane and decent” treatment and appropriate levels of medical and psychological care throughout their detention.

But Amnesty International’s UK director, Kate Allen, called for the repeal of the Prevention of Terrorism Act and said, “Once again, the UK’s anti-terror measures are condemned by a leading international human rights body. How many times must the government be told that its anti-terror regime is plain wrong?”

Gareth Peirce, a solicitor defending several detainees who have been served control orders, condemned the actions of the government. She said, “From the time of the House of Lords judgement, they kept all the detainees in custody, knowing it had been condemned as inhuman and degrading treatment, until the last-ditch stand in March, and deprived parliamentarians of the information when they were debating the legislation.”



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