

# France: Anti-terrorism legislation tramples on civil liberties

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The French National Assembly voted on November 29 to back Minister of the Interior Nicolas Sarkozy's new anti-terror bill.

The bill vastly increases the state's powers of electronic surveillance of its citizens through the use of closed-circuit cameras in public places, the recording and monitoring of Internet activity, and the retention of data that must be made available to the state.

It was passed by 373 votes in favour (by the ruling UMP [Union for a Popular Movement] and the centre-right UDF [Union for French Democracy]). The Socialist Party abstained. The 27 votes cast against the bill were those of the Communist Party, three Greens and just three Socialist Party deputies.

The refusal of the official left to mount any real opposition to the government's declaration of a state of emergency during the nationwide youth riots that sparked off on October 27 has emboldened the Gaullists led by President Jacques Chirac, Prime Minister Dominique de Villepin and Sarkozy to make ever-deeper inroads into civil liberties. Riot police are permanently stationed in designated neighbourhoods, curfews are in operation and the state of emergency, lifting all judicial control over police actions, decreed for 12 days, with the approval of the Socialist Party, has been extended for three months with only token opposition from the SP.

In one particularly significant incident in relation to Sarkozy's bill, the right of assembly was suspended for 22 hours in Paris on November 9. The police justified this measure by citing Internet monitoring having revealed plans for a riot.

The pretexts of terrorism, particularly the London and Madrid bombings, along with the youth disturbances of October/November, are being used to develop an ever-increasing panoply of state powers designed to repress resistance to the government's destroying the living standards of the working class in order to be globally competitive.

The emergency conference of the Socialist Party, concluded November 20, formally opposed the extension of the state of emergency, but stressed its own commitment to law and order and increased policing. Its response to Sarkozy's anti-terror bill shows that its posture of opposition was merely a measure to mask the party's tacit support for repressive legislation.

On the bill's passage through the National Assembly, Agence France Presse (AFP) noted: "A rare occurrence: the debate took place in a consensual way, between the government, the majority and the Socialist Party, with Mr. Sarkozy quick to acknowledge the 'sense of responsibility' of the Socialists, while Daniel Vaillant (Socialist Party), his predecessor as minister of the interior, called on political leaders to abstain from all polemics."

*Le Figaro* of November 23 exclaimed: "It is in an astonishingly

nonconflictual climate that the deputies are examining the anti-terrorist bill elaborated by Nicolas Sarkozy after the London bombings on July 7.... [T]he Socialist deputies were considering voting for the government's text to the chagrin of the bar and several associations for the defence of human rights."

The League for Human Rights, the magistrates' union, and the Union of Advocates of France designated the bill as "*liberticide*"—destructive of freedom.

In an interview in the *Parisien* of November 29, Jean-Marc Ayraud, chairman of the Socialist group of deputies, said: "For me it is out of the question to vote against. The democracies must know how to defend themselves faced with the dangers of terrorism. The text being proposed has no measures diminishing freedom (*liberticides*) nor against legal restraint (*l'état de droit*), even if it is lacking on some points."

He carried forward the stance taken at the emergency Socialist Party congress last week of presenting the SP as the main party of law and order: "The Left would be committing a grave error in abandoning to the Right firmness and respect for public order and security."

The contrast between the significance of the bill in destroying civil rights and enhancing the power of the state, and the ease of its passing, demonstrates the basic unity of the political elites, whether nominally of the left or right, and their determination to crush all movements of resistance provoked by ever-growing attacks on living standards and social rights. AFP describes the perfunctory nature of the debate: "Only Noël Mamère (Greens) spoke out, occasionally backed by the Communist Michel Vaxès [not a leading member], against this bill, which he characterised as 'prejudicial to fundamental rights.'"

In the meeting of the Socialist group of deputies prior to the vote, which took the decision that the Socialists would abstain, Vaillant was among a significant minority who urged a vote in support of the bill. A number of leading members absented themselves from the vote, including Arnaud Montebourg, who presents himself as a left dissident.

Speaking for the Socialist Party, Jean Floch also tried to cover up the arbitrary powers being accorded to the state: "While accepting the measures taken to attempt to guarantee the security of our fellow citizens, we are exacting on the limits of the legislation so that the rule of law is respected.... Fully aware of our responsibilities, we are abstaining on this text."

Sarkozy, thus legitimised, was able to declare to the assembly: "The struggle against terrorism appeared as neither a right nor left issue, but on the contrary, there was a continuity of whatever government to strengthen the legal arsenal."

What is a major step towards a permanent police state has been allowed to pass with barely any serious comment from the media. Sarkozy's bill was reported with the minimum of detail, and its implications for civil rights were not drawn out.

The bill builds on considerable state powers dating from anti-terrorist legislation passed in 1986, after a series of bomb attacks. This legislation set up a specialised team of anti-terrorist judges led by Judge Bruguière, based in the Fourteenth Section of the Paris Prosecution Office. The judges are endowed with arbitrary powers of mass arrest and provisional and preventive detention using the vague provisions of the laws criminalising "association with miscreants" (*association de malfaiteurs*). These powers have largely been used not only against Corsican, Basque, Iranian, Algerian and Islamic suspects, but also against French nationals, and have involved hundreds of suspects being held for up to four years without trial. The left parties have been generally indifferent to the blatant flouting of human rights on French soil.

Whereas Blair and Bush may enviously contemplate Bruguière's team's powers, the French state is anxious to junk the country's extensive privacy laws. In particular, with only 60,000 surveillance cameras at present in operation, it cannot wait to emulate the 4 million devices recording the daily life of Britain's inhabitants. It is estimated that, in a day, an ordinary Londoner going to work and back will be caught on film some 300 times.

These are the main provisions of the bill:

- \* The *préfets* (representatives of central government in the regions acting under the orders of the minister of the interior) will be enabled "to make obligatory the installation of cameras in suitable places so as to improve the detection of operations preparing terrorist acts." A refusal to install the required camera is punishable by a €150,000 fine. A vast programme of provision of the most advanced equipment is envisaged.

- \* Internet and telephone providers are obliged to give to "specially empowered officers from the national police and gendarmery, information kept and treated" by them. The providers will be required to conserve technical data such as phone numbers contacted by the user, localisation of "terminal equipment." The state information gatherers can largely avoid judicial control: "The present obligation to act in accordance within a determined judicial procedure is too restrictive." Officials designated by the Coordination Unit of the Anti-Terrorist Fight under the flimsiest of judicial control will guarantee the purpose to which this surveillance is put. The document assures the public that the content of messages will not be monitored.

- \* Cars and their passengers can be electronically monitored and filmed, and restrictions on identity checking on transnational trains are to be reduced. Air and transportation companies and travel agents will be required to give the details of travellers.

- \* The crime of "association with miscreants," or conspiracy, whose terms are so vague as to criminalise people who have used the same cafés, will incur greatly increased penalties: someone found guilty of being an associate will have his or her prison sentence doubled to 20 years in jail, while "leaders and organisers of the association" will have their sentences extended to 30 years from 20 years.

- \* The time that prisoners can be held without trial is lengthened from four to six days, a provision that is largely ignored by the anti-terrorist judges. Indeed, the bill provides that all cases be assigned to "specialised judges with national powers," meaning Bruguière's team in Section Fourteen in Paris who can in fact keep people in prison indefinitely if they state an intent to prosecute.

Another significant measure of the bill is the lengthening from 10 to 15 years of the period by which a naturalised French person can be stripped of his or her nationality. The vague, catch-all nature of the offences that may lead to this sanction is evident: "an act clearly prejudicial to the interests of the Nation; an act of terrorism; acts incompatible with the quality of being a French person (*actes incompatibles avec la qualité de Français*) and prejudicial to the interests of France."

Citing a mystical and indefinable French essence gives unlimited opportunities for the state to repress long-established French nationals; it establishes a crime of being "un-French." Could it be for refusing to acknowledge the French flag, for carrying the flag or emblem of another country, disregard for the national anthem, the singing of a patriotic song of another nation? Disagreement with government policy? The list is inexhaustible. None of the commentaries and summaries of the bill in the press have picked up on this point.

The introduction justifies this provision: "[O]nce French nationality has been acquired, the militant can no longer be legally expelled, and, moreover, is no longer obliged to obtain a visa to travel to many countries. We must put a stop to these strategies."

Along with greatly increased immigration control and added police responsibilities given to France's 36,000 mayors of communes, the basic administrative unit and arm of the French state, the ruling élites are preparing to counter the immense anger and resistance developing among the youth and the working class. They are tantamount to setting up a permanent state of emergency, which is a good working definition of a police state. The introduction to the law is clear: "France must face a high level of terrorist threat necessitating new legal instruments, which are the object of this law. Some are intended to be long term, others can be discussed in parliament in three years."

In the space of three weeks, special powers have been expanded from 12 days to three months and then to three years or an indefinite period. At every juncture, a political mobilisation of the working class against this assault on democratic rights could have stopped these developments. The absence of any attempt to mobilise the working class by the left, including the Communist Party—whose votes against the state of emergency, and now the anti-terror bill have been purely platonic—has been crucial in allowing France's ruling elite to impose its anti-democratic agenda.



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