

Britain: Blair pledges to override Human Rights Act

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The Blair government's ongoing offensive against civil liberties escalated this week with the declaration that it wants to override a range of existing laws such as the 1998 Human Rights Act. This followed a High Court ruling earlier this month that the government was guilty of an "abuse of power" in its efforts to subvert the rule of law.

The High Court ruling related to the case of nine Afghans who, in a desperate attempt to flee the Taliban regime in Afghanistan in February 2000, hijacked a Boeing 727 during an internal flight from Kabul and forced it to fly to Stansted airport, London, with passengers and crew on board.

Foreign nationals convicted of crimes in Britain would normally be deported at the end of their jail term, which for hijacking could be anything up to nine years. But under international law the government is also obliged to consider an asylum claim.

When it became clear that the men and their families had carried out the hijacking to petition for asylum in Britain, the government did its utmost to prevent them from exercising their right. Then Home Secretary Jack Straw said: "I am utterly determined that nobody should consider that there can be any benefit in hijacking ... I would wish to see removed from this country all those on the plane as soon as reasonably practicable."

Following an intense campaign by the right-wing media, the nine men were tried and convicted of hijacking, false imprisonment, possessing firearms with intent to cause fear of violence and possessing explosives. But in May 2003, these convictions were quashed by the Court of Appeal who ruled that the law about whether the hijackers had been acting under duress had been wrongly applied.

In July 2004 an independent panel determined that, even though the Taliban no longer controlled Afghanistan, deporting the nine would breach their human rights as their lives could still be in danger.

In November 2005, Straw's replacement as home secretary, Charles Clarke, granted the Afghans temporary admission to the UK on the basis that they would not be able to work or travel abroad and must report regularly to authorities. In the latest High Court ruling on May 10, Mr. Justice Sullivan quashed Clarke's decision as unlawful and described the Home Office's continued efforts to deport the nine, despite legal rulings, as "inexcusable."

In a strongly worded criticism that set out how the government had sought to withhold basic human rights from those seeking asylum and disregarded British and international law in the

process, Justice Sullivan said, "It is difficult to conceive of a clearer case of 'conspicuous unfairness amounting to an abuse of power' by a public authority."

He added that the Home Office's conduct deserved "the strongest mark of the court's disapproval" and ruled that the nine may stay in the country, subject to review every six months.

Prime Minister Tony Blair denounced Justice Sullivan's ruling as an "abuse of common sense," whilst the newly installed Home Secretary John Reid claimed, "When decisions are taken which appear inexplicable or bizarre to the general public, it only reinforces the perception that the system is not working to protect or is in favour of the vast majority of ordinary, decent, hard-working citizens. That is a perception that should worry all of us and it is a perception that all of us should be working to put right."

Home Office minister Tony McNulty said, "It remains our intention to remove them as soon as it is possible."

The government's posturing as the defender of the democratic rights of the "general public" from arbitrary and "inexplicable" encroachments upon them by the judiciary turns reality on its head. Delivering his verdict, Justice Sullivan made clear that the case did not concern the actions of the hijackers but the government's systematic efforts to flout court rulings.

He said, "Lest there be any misunderstanding, the issue in this case is not whether the executive should take action to discourage hijacking, but whether the executive should be required to take such action within the law as laid down by Parliament and the courts."

Successive home secretaries had failed to grant the Afghans discretionary leave to enter Britain, allowing them to remain only on a temporary basis and under conditions in which they were denied work and kept in a legal limbo. In doing so the government had "defied" judges and legal procedures, Justice Sullivan said. For almost 17 months the home secretary "deliberately delayed" implementing the June 2004 appeal court decision that the men could not be sent home "in order to give himself time to devise a revised policy" that would justify his actions, Sullivan explained.

Justice Sullivan said that it was particularly disturbing that such flagrant efforts to circumvent the law were not simply the conduct of a junior official but were authorised "at the highest level." Under the European Convention on Human Rights (ECHR) asylum-seekers are entitled to refuge until they can safely return home without risk of harm and a breach of the Convention's Article 2—the "right to life."

The vituperative statements by Blair and other leading officials following the court case make clear not only that the government has no intention of honouring the ruling, but that it intends to utilise the case as a populist vehicle through which to make even greater inroads against civil liberties.

The Blair government's efforts towards this end are extraordinarily reckless. Not only is it deliberately courting the most backward and reactionary prejudices against immigrants, but in counterposing "common sense" and popular opinion to judicial rulings it risks undermining the essential pillars of bourgeois rule.

These actions are made all the more dangerous by the fact that they emanate not from a strong and assured government, as Blair claims, but the opposite.

He is now on record as the most hated premier in modern history. Notwithstanding his recent claims to be listening and responding to the "general public," the prime minister has long made clear his contempt for public opinion—most notoriously in his decision to join the US-led war against Iraq despite massive popular opposition.

The real constituency that Blair is "listening" to is the corporate elite and super rich who put him in power and have kept him there to do their bidding. This is a layer that has its own political objectives and is indifferent to how they are achieved and at what cost.

Rupert Murdoch's News International corporation in particular has long opposed the incorporation of the European Convention on Human Rights into British law that was enacted after Labour came to power in 1997. The financial oligarchy opposes any measures that could impinge on its powers over the broad mass of working people. Moreover, Murdoch regards attacks on the Human Rights Act as a means through which to press its opposition to the European Union and to push the government ever further to the right.

Describing Justice Sullivan's ruling as a "triumph for terrorism," the *Sun* launched "a proud campaign to put an end to the human rights madness that is horrifying the country. We applaud David Cameron [leader of the opposition Conservative Party] for pledging that the Tories would tear up crazy human rights laws, and we urge Tony Blair to get on and do it while he remains in power. The whole concept of 'human rights' in Britain has become a travesty under which the interests of killers, rapists and paedophiles are placed above those of their victims."

Put "Britain's courts back in charge of British interests," the *Sun* concluded. Murdoch's *Times* newspaper has made similar demands, and its columnist Simon Jenkins denounced "the human rights circus," insisting, "Liberals may welcome the greater respect for human dignity, personal choice and individual freedom enshrined in much modern legislation. But these are values, guiding principles, not legal entitlements."

The *Sun* has described the Human Rights Act as an "EU" charter. In reality, it has its origins in the European Convention on Human Rights, which was drafted in the aftermath of the Second World War in response to the crimes perpetrated by the Nazis.

Politically it played a vital role in seeking to restore the belief that the continuation of capitalism was compatible with the preservation of democratic governance and civil liberties—and

particularly those of refugees given the atrocities perpetrated by Hitler.

However, despite the fact that it was drafted in the main by British lawyers and the UK was amongst the first to ratify it, the convention was not signed into British law for several decades. Even then this was forced upon the Labour Party when, during the period of the Conservative government of Margaret Thatcher, a series of defendants had won high-profile legal actions in the European Court of Human Rights in Strasbourg that had highlighted their failure to receive any justice in British Courts.

As part of its claim to redress the wrongs perpetrated during 18 years of Conservatism, whilst continuing with the same economic policies, in 1998 the Labour government passed legislation incorporating the European Convention into British domestic law. This was implemented in the Human Rights Act of that year and came into force in the UK in 2000. Each of the 46 member countries of the Council of Europe has made convention rights part of its constitutional and domestic laws.

The Human Rights Act is now to go the same way as other key elements of international law over which the government has ridden roughshod. In addition to waging an illegal war alongside the US against Iraq, it has introduced a raft of antidemocratic legislation that contravene human rights legislation—including attacks on the right to silence, to trial by jury and the right of assembly. In the name of combating terror, it passed the Prevention of Terrorism Act abrogating the right to free speech, habeas corpus—protection from unlawful detention—and the presumption of innocence upon which all legal and democratic principles have hitherto rested.

Prodded by the demands of the Murdoch press, Blair has now pledged a "radical overhaul of Britain's controversial human rights legislation." The *Observer* newspaper quoted a government source stating that one option being considered by the government is to amend the 1998 Human Rights Act to require a "balance between the rights of the individual and the rights of the community to basic security."

In a row over the failed deportation of foreign prisoners at the end of their sentences, Blair has also said that he intends to change the law so as to ensure that citizens of most non-UK nations are deported automatically on leaving prison. This would mean overturning the provision that foreign citizens cannot be sent back to countries where their lives may be endangered.



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