

# LIBERTY

PROTECTING CIVIL LIBERTIES  
PROMOTING HUMAN RIGHTS

## The Prime Minister's 12- Point Anti-Terror Package

### Liberty's Initial Thoughts

- 1. Deportations to dubious regimes based upon "memoranda of understanding". If necessary amending the Human Rights Act to allow breach of Article 3 (prohibition on torture)**

If the Prime Minister wants to use his considerable diplomatic skills to improve the human rights' compliance of various North African and Middle Eastern regimes, that is a very good thing. However it will take more than a self-serving piece of paper to convince us that Jordan, Algeria etc. are free from torture.

Amending the Human Rights Act is as foolish as it is wrong. The prohibition on sending people to torture (Article 3 and *Chahal v UK*) comes from the ECHR and Court of Human Rights themselves. Is Mr Blair proposing to leave the Council of Europe?

Ultimately, terrorists should be charged, tried and convicted not shuffled off around the world only to return, or peddle their hatred elsewhere.

- 2. A new offence of "condoning, glorifying or justifying terrorism" anywhere in the world**

Inciting criminal offences (including a broad definition of terrorism) is already criminal. The authorities should employ the measures they have rather than seeking ever broader criminal law. This proposed new speech offence is breathtakingly broad. It is capable of catching perfectly common-place and moderate views about world affairs. It would have caught those who sympathised with the African National Congress during the worst days of South African apartheid. It would violate Article 10 (freedom of expression) of the ECHR.

- 3. Anyone who has participated in terrorism or has anything to do with it anywhere in the world will be automatically refused asylum**

This would be in breach of the Refugee Convention which has much more tightly drawn exclusions in relation to those who commit the gravest crimes<sup>1</sup>. It does not deal with the prohibition on returning people to places of torture, inhuman or degrading treatment.

- 4. Extending powers to strip people of citizenship**

Such powers already exist, though it is contrary to international law to strip your citizens of their nationality so as to leave them "stateless". Tinkering with nationality will not address

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<sup>1</sup> See Articles 1F and 33(2) of the 1951 Refugee Convention- exclusions for those who have committed crimes against "peace or humanity" or guilty of acts contrary to the "purpose and principles of the United Nations, or a danger to the security of the country.

the problem but will meet opposition from members of minority ethnic communities. Criminal suspects should be prosecuted.

#### **5. Speeding up extradition**

We now have virtually summary extradition arrangements with most of Europe and a one-sided arrangement with the U.S. Liberty believes that requesting states should have to show at least a *prima facie* case before a British national is taken away from friends, family and country to be detained pending trial in a foreign land (however friendly). Further, there can be no question of Britain extraditing people to face ill-treatment abroad.

#### **6. New court procedures and extended pre-charge detention**

Flirtations with French-style inquisitorial justice provide no escape from defendants' rights to know the case against them. The ACPO desire of three-months pre-charge detention (a 6-fold increase on current limits in terror cases) amounts to the equivalent of serving a 6 month prison sentence without charge. The "new court procedure" is clearly another attempt at co-opting judges into administrative detention policy. It is a new internment and as dangerous and counter-productive as earlier adventures in detention without charge. It would violate Article 5 (right against arbitrary detention) of the ECHR.

#### **7. Extensive use of control orders**

Control orders amount to long-term punishment without trial (in violation of the right to a fair trial under Article 6 of the ECHR) and provide neither justice nor security. Terror suspects should be charged with recognisable offences and detained pending trial, not left to live in the community wearing plastic tags.

#### **8. More money for more "special judges"**

It is interesting that this is the only promise of additional resources in this package. Money is needed not for "special" or rather "sub-standard" justice but for policing, intelligence and the conventional criminal justice system. Liberty believes that some funds might be re-directed from the misguided Identity Card project which Home Office Ministers now admit to having "oversold".

#### **9. Extending powers to proscribe organisations**

Politicians gave themselves the power to proscribe organisations concerned with terrorism under Part II of the Terrorism Act 2000. The suggestion now appears to be to ban extreme political parties and groups who are not involved with violence or its incitement. This is contrary to rights of free association, completely anti-democratic and counter-productive to the priority of engaging young Britons in democratic discourse. This would violate Article 11 (freedom of association) of the ECHR.

#### **10. Allegiance, Language and Commission for Integration**

Allegiance is inspired, not enforced by law. You cannot unite a society by control and command. However, if the Government is seeking a broader debate about British values, Liberty would suggest that our framework of rights and freedoms would be a very useful start.

## **11. Closing Down Places of Worship**

This proposal is terrifying. Those who commit or incite criminal offences should be prosecuted but state control of religion is anathema to democratic society. This would violate Article 9 (freedom of thought, conscience and religion) of the ECHR.

## **12. Securing our Borders**

Liberty has no problem with secure visa systems or with excluding those rationally believed to be dangerous from the United Kingdom. However we are disappointed in the repeated suggestion that combating terrorism is a matter of immigration control. Peddling this line may play well in parts of the country but ducks the more serious and difficult questions about how terrorist organisations are able to successfully recruit amongst Britons and non-Britons alike.

**Liberty**  
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