

Concerns about the nature and application of the new Terrorism Act

In his opening remarks Mark Muller, chairing the meeting, said that the discussion had been prompted by the widespread concerns about the nature and application of the new Terrorism Act and especially its implications for long cherished human rights and its impact on minority communities. Parliament's ratification of the proscription of 21 international organisations making it an offence to further their activities in any way fundamentally offended individual human rights. No distinction was drawn between violent and non-violent actions. The Act was a charter for suppressing both ideas and cultural identities and compromised the country's respected tradition of offering sanctuary to political refugees and dissenters.

While it was necessary to combat terrorism and crime, Mr Muller said, the Act added nothing to existing criminal law whose powers were sufficient to deal with the problems. So why was the government acting now? He feared that the implementation of the Act may result in increasing conflict and disorder and cited the experience of the Federal Republic of Germany where similar bans had resulted in conflicts and had merely driven dissent underground. The Act was ill-conceived and came notwithstanding the incorporation of the European Human Rights Act into British law.

Mr Muller then mentioned the case of Kani Yilmaz who gained legal entry into Britain to brief parliamentarians on the PKK's cease-fire, but was later arrested without a warrant on the grounds that he posed a threat to national security. This came under pressure from Turkey. This was all long before the new Terrorism Act, but, he asked, what would be the status of such a meeting in Parliament today? Would it now be deemed an illegal gathering? Mr Muller recalled that 70 MP signed a letter protesting at Yilmaz's arrest, including current Foreign Secretary Robin Cook. He concluded that the most serious implications for human rights were posed by an Act that made it illegal to hold a peaceful meeting called with the intention of raising a legitimate political issue, like peace between Turkey and the Kurds. Such was the consequences of the failure to distinguish between violent and non-violent offences.

The first speaker, solicitor Gareth Peirce, began by saying that she found the term "terrorist" to be an offensive one because it carried with it a stigma. She was concerned that last year's Act redefined the term very widely to include all protests and any activity that might effect the health and security of any country. Last year the media had reported almost exclusively on the Act's likely effects on road protesters, greens and animals rights activists, but now the reality of its effects were hitting home: it is almost entirely refugee communities who are being targeted with the publication of the 21 proscribed groups.

Ms Peirce then drew a comparison with the way that government and police had targeted the Irish community over 25 years when the PTA was in operation. Thousands of Irish people had been effected: she had herself represented dozens of people charged under the PTA and as it turned out wrongly detained and prosecuted. To fall under the PTA was an ordeal for individuals and their families. Travelling from Ireland and Britain was made a hazardous task. The implications for how the new Act would be operated were clear: the PTA targeted indiscriminately people of particular religions and nationalities. The wider scope of the new Act, allowing the law to try cases of people allegedly involved in terrorism abroad, was one terrifying aspect of the Act. She wondered how lawyers in this country would ever be able to

reconstruct the specific political circumstances of a country like Algeria, Egypt and Sri Lanka.

Every aspect of the Act raised serious questions: there was the issue of withholding evidence on suspects vital to any defence case, but now restricted on security grounds; the impact on people's behaviour by creating a mood of fear and uncertainty with no-one really knowing if what they were doing was illegal. Ms Peirce said that under US law the Act would be voided for its vagueness. The Act set up a tension with the Human Rights Act. It had redefined terrorism and human rights on ideological lines setting up people who deserved to be seen as human by the government. This was only those who subscribed to the UK/US model of democracy as the best in the world, no questioning of it could be admissible. She thought the reasons for the Act now were twofold: there were internal political objectives and the domestic impact in its attack on inalienable rights; it was also intended for export being proposed as a model for Europe and already hailed in the press of foreign governments who saw it as a gift. Blair was clearly trying to take the lead in the process of European harmonisation.

She concluded by stating bluntly that the Act did not deserve to remain on the statute books. It had torn up the lessons of the last century and destroyed the moral standing of the country.

Nicholas Blake QC said that the Universal Declaration of Human Rights allowed for the possibility of rebellion against tyranny and oppression. Where laws do not protect human rights there may be just cause to resort to forms of rebellion. There had been evidence of this in English history and the idea had been the basis for people coming here seeking asylum in the past. Such principles were part of the country's political and legal traditions over some 200 years, and especially in the 19th century. The European rebels who had engaged in the 1848 revolutions, for example, had come to London seeking haven as refugees and at that time the idea of rebelling against oppression was regarded as legitimate. In contrast the new Terrorism Act was an advanced attempt to criminalise the whole of the asylum process. The government that had been losing the debate was now stopping legitimate debate and removing the rights of asylum.

Mr Blake was particularly concerned at the way the Act might have the effect of eliminating the arguments about putting protection of the individual at the centre of the law. It came in the context of a wider criminalisation taking place. It removed the right to claim a political defence against extradition rules. Political suspects could not be extradited, only suspects accused of non-political crimes could be. He said that at the UN, Britain had failed to win the debate in defining terrorism as a non-political offence, but was now changing its own laws. The effects of the new Act meant that it would now be difficult for someone to claim asylum. Indeed what was said in an asylum application could conceivably lead to the same person being prosecuted for terrorism. The implications seen in Algerian and Afghan cases did not bode well for the future. Legal opposition to the new law was very limited. Courts had extremely limited powers to strike down decisions made by the executive. A challenge under judicial review was itself very limited. In cases involving national security there will be a new special immigration appeal body which would be where future challenges would be heard. Finally, Mr Blake warned that the new Act was in danger of short-cutting the country's obligations under existing international legislation.

The playwright Harold Pinter pointed to the prejudiced political calculations behind the Act and the list of proscribed groups. He understood that nowhere was the KLA on the list and suspected that the Nicaraguan Contras would not have been there either. Such groups were both subsidised by the US and seen as "our freedom fighters". He was pleased to be participating in the event but found it depressing that the meeting was taking place after the event. Likewise he found the vote in the Commons where 396 voted in favour of the Act and only 17 against even more depressing. It meant that only 17 people had really subjected the Bill to any detailed critical scrutiny.

The case of Turkey and the PKK was an eloquent example of where Britain stood in relation to human rights across the world and American policy. While Turkey had brutally suppressed the Kurdish people and sought to humiliate them by the arrest of Ocalan, they had failed because of the strength of the Kurdish resistance. Newspaper reports had repeatedly claimed that Ocalan had killed 30,000 people, when the real facts were ignored which were that most of the deaths were victims of the Turkish military. While this went on Britain was trading with Turkey and energetically supplying the regime with weapons of torture, as had been documented by Amnesty International. There was an obvious discrepancy between government policy and the true facts.

Exposing the absurdity of the situation, Mr Pinter concluded by mentioning the incident when his play "Mountain Language" was performed by a Kurdish theatre group in Hackney. The community centre was raided by the police because someone had reported that the Kurds were carrying weapons, when in fact the play, which was about torture, called for imitation weapons as stage props. The brutal way the Kurds were treated made the Kurds feel that they were back in Turkey. He condemned the new Act as dangerous and pernicious. British law was now quite acceptable to Turkey.

Lord Rea, who participated in the House of Lords debate on the introduction of the proscription order, gave an account of the proceedings. He was concerned that the government spokesman Lord Bassam was unable to give a convincing reason as to why this law was being introduced at this particular time. He had simply mentioned the need for Britain to support other members of the international community in the global fight against terrorism. When the question was asked why these groups had been proscribed, the answer was given that the Home Office had access to additional intelligence which could not be disclosed even when the groups were appealing for deproscription. It will not be available to their barristers either. Only the commission charged with reviewing appeals will be allowed to see it. In effect, Lord Rea said, no-one could know exactly how the Home Office had calculated its decision and proscribed groups will not know the charges laid against them.

Lord Rea felt it was curious that the PKK was being banned over two years after it had declared a cessation of armed activities and had been pursuing peace. Shirley Williams had questioned the government about this, asking how long a period of non-violence was required before the government would be able to lift the proscription.

Lawyer Louise Christian, involved in asylum work since 1988, related the Act to the current attacks on asylum seekers. The Home Office was sending out refusal letters to Kurds and others on the grounds that they were not active members of



One of the terrorist organisations which escaped the ban.

banned parties; they were now being criminalised because they were. The Terrorism Act meant that the UK was repeating the process of persecution that asylum seekers had endured in their home countries. It should also be seen as part of the attack on the principles of the 1951 Geneva Convention.

Ms Christian said that she had long taken a sceptical attitude towards the effectiveness of the Human Rights Act and found her views confirmed by the new Terrorism Act. She was not optimistic that any challenge to the law could be left to legal action alone as judicial review procedure was very limited. The Act was a political issue and demanded a wider campaign. It should be challenged by direct action, she said, giving notice of a protest that was being organised in May. So far the new law had had little media coverage, it had been brought in with force in an undemocratic way. Last year no-one knew who the real targets were; the press reported on animal rights and green activists, but did not consider refugee communities. She said that countries like Turkey and India had been putting pressure on Britain to act against groups like Kashmiris and Kurds.

She went on to condemn the Home Secretary's proposals for revising asylum policy, especially the idea of setting up detention centres on neighbouring countries as an alternative to the present system. This was an alarming development and presented a major assault on the Geneva Convention. She was ashamed to be associated with a country that was advocating such ideas.

Desmond Fernandes, a lecturer from De Montfort University who had written about state security matters and human rights, spoke of the two decade long history of criminalising the Kurdish community by the British police and security services. The Terrorism Act was nothing new for the Kurds, but was more an extension of legislation and actions already taken against them. He feared however that the process would intensify. He set the issue in a far wider context of international alliances. Britain was a NATO ally of Turkey and was pursuing strategic aims against the Kurds and the Turkish left. He alleged that Britain had assisted in the funding and training of Turkish

death squads used against political activists and referred to the way HADEP members were habitually refused visas to enter the country. All this was part of the same suppression of dissent. The criminalisation made it easier for the government to repudiate the Kurdish cause and allowed deportations of Kurdish asylum seekers to Turkey. He described the interrogations of visitors at the ports as evidence of the restrictions being put in place on the freedom of movement between European member states. The proscription of the PKK had turned millions of Kurds resident in Europe into terrorist suspects.

He gave several examples of how security services had already been targeting the Kurdish community and how MI5 had been monitoring human rights activists dealing with Turkey. Kurds had been detained under the PTA in 1995. Incidents included phone-tapping, police targeting Kurdish cultural and community events, police warning Kurdish shopkeepers not to sell Kurdish newspapers, individuals being offered bribes to become police informants and even the offer of refugee status for co-operation. All this has occurred before the PKK ban and he warned that this was now likely to intensify. He warned everyone that under the new Act even wearing Kurdish dress could be interpreted as supporting terrorism because the Act refers to items of clothing that arouse suspicion.

The meeting concluded with a determination to support the campaigns and initiatives that were being launched to get the Terrorism Act 2000 repealed and to end the policy of proscribing political groups. One action would be to draw up a public appeal against the legislation to be signed by prominent personalities and lawyers.

Report: David Morgan, 24 April 2001.

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