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On the 7th July 2005 four suicide bombers killed 52 people and injured many more on public transport in central London. There had been many warnings since the attacks on the United States on 11 September 2001 that Britain was also a prime terrorist target. The heavy involvement of the UK in the US-led invasion and occupation of Iraq in 2003 was perceived by many as increasing the chances that Britain would be targeted, though the government has maintained that the invasion of Iraq had not in itself increased this threat.

After '7/7', Prime Minister Tony Blair declared that 'the rules of the game have changed'. The 'war on terror' had arrived, at great human cost, on home soil. And as the rules of international conflict and security had changed, he argued, so must the government's approach to individual liberties in Britain; the government would need to change certain rules too, taking new measures in order to protect British citizens from terrorist threats. Blair often repeated his view that the most basic liberty of all was the right to life; to protect British lives, some other civil liberties may need to be curtailed.

The Government's key response to 7/7 was the Terrorism Bill 2005, the fourth major piece of anti-terrorist legislation since 2000. This legislation proposed to extend from 14 to 90 days the length of time that suspects could be held without charge, and created new offences of glorifying or inciting terrorism, attending a terrorist training camp or making preparations for acts of terrorism. These proposals extended and deepened challenges to traditional civil liberties in Britain, but in the context of 'changed rules'. The prime minister lost the vote in the House of Commons on the 90 days detention proposal in November 2005, though he fought for it vehemently in the face of likely defeat, arguing that 'We are not living in a police state but we are living in a country that faces a real and serious threat of terrorism' (BBC News, 9 November 2005; http://news.bbc.co.uk/1/hi/uk_politics/4422086.stm). After the vote, he claimed that 'the country will think parliament has behaved in a deeply irresponsible way'; quoting a senior police officer, he said 'We are not looking for legislation to hold people for up to three months simply because it is an easy option. It is absolutely vital. To prevent further attacks we must have it' (The Sunday Times, 13 November 2005). In short: the people want and need protection from proven, immediate threat; the measures needed may be extraordinary, but they are also necessary.

The Blair Government's anti-terrorism laws have been at the core of heated debate about security, civil liberties, and the proper understanding of (and relationships between) the two. Challenging traditional civil liberties in the face of external threats is not new in Britain, as I shall describe briefly in a moment. But varied voices accusing the Blair government of chipping away at time-honoured citizen rights and liberties have invoked more than the government's approach to the war on terror. Policies concerning, for example, the regulation of asylum-seekers, the planned introduction of identity cards, action on anti-social behaviour and the challenge to the right to trial by jury have been framed by critics as evidence of a government that places too little value on basic citizen liberties. There is even speculative talk about the emergence of a new type of state, one whose regulation of the behaviour of citizens runs deeper than before in a democracy, giving rise to concerns about the 'security state', or even the emergence of a 'post-democracy'.

In democratic systems such as Britain 'democracy', is never static; it is a label as well as a thing, and there is much dispute about what institutions and attitudes that label should be applied to. Both the substance and the symbolism of British democracy shift and change in the context of these debates about civil liberties. Competing conceptions of democracy run underneath many of the debates about civil liberties and the protection of citizens. The trade off between security and civil liberties is very

much of the moment. But this is far from being the first era in which critical observers have perceived governments encroaching on basic rights and liberties. Equally, is it the first time that governments have perceived the need to take steps to curtail the liberties of those they see as posing dangers to the polity or the society? Taking the 'long view' serves to remind us that such disputes are centuries old. Momentous questions of the liberty of the subject go back to Magna Carta in 1215 at least. Habeas corpus, the right of the individual not to be subject to arbitrary arrest, has been part of English law since the late seventeenth century. These principles are part of a broad and complex historical trajectory of rendering the executive accountable to parliament and through the latter to the people. There are many historical examples of these rights and liberties being challenged by governments. In the late eighteenth century, Prime Minister William Pitt's government arrested and charged with treason several people suspected of dangerous sympathies with the anti-republican ideals of the French Revolution. The unsuccessful trials that followed were conducted in the name of national security. The fear of France under Napoleon, and over Irish rebellion in 1871, saw suspensions of habeas corpus and the use of detention without trial respectively.

More recently, the Defence of the Realm Act of 1914 imposed wide powers of internment and of restrictions of liberty. Shortly prior to the outbreak of World War II, the Emergency Powers (Defence) Act authorized the Home Secretary to lock people up on the basis of his belief that a person was 'of hostile origin or associations'. Those identified as sympathizing with fascism, most notably Oswald Mosely, were interned during the war. The so-called 'troubles' in Northern Ireland from the 1960s to the 1990s saw the abandonment of trial by jury, the authorization of detention without trial, the introduction of internment and the passage of the Prevention of Terrorism Act 1974, which was renewed annually. The perception that recent anti-terrorist legislation undermines civil liberties has its own reasons and style (and there are new and distinct characteristics to the threats that the government has based its justification for legislation upon), but there is a rich historical context into which all of the current debates fit (Bindman 2005).

Policies in question

Fears about the undermining of civil liberties under the Blair government have centred mostly upon anti-terrorism legislation. But those fears, and accusations, are often expressed with respect to other policies of the government, notably around asylum-seekers and identity cards. Asylum-seeking and immigration (legal and illegal) have become hot political issues around the world, not least across the European Union (EU), in recent years. In the past twenty years, asylum applications to EU states have grown enormously. The peak was in 1992, where the number of applications was over 684,000 (up from 50,000 in 1983). The number in 2002 was 381,600 (Loescher 2003). Over this period, Germany was the largest recipient of asylum applications in Europe, though Britain took that mantle from 2000. In each of the years from 1998 to 2001, Britain received over 90,000 asylum applications and over 110,000 in 2002.

Under the Blair government, there have been a range of measures, legislative and administrative, designed to limit the number of asylum applications. Border control measures at points of entry into the country have been increased. Detention of those whose claims have been refused has risen in prominence. Detention, in centres such as the UK's largest, Yarl's Wood in Bedfordshire, has been controversial. Accusations of racist abuse by staff, the lack of educational provision for children in detention, and a lack of safety for women and children in detention have been prominent (The Guardian, 27 July 2005). Benefits have also been an issue; the 1999 Immigration and Asylum Act took asylum-seekers out of the UK benefits system and introduced shopping vouchers for refugees. This was seen as a way to make asylum-seeking a less attractive option to those considering entering the country. Under the Asylum and Immigration Act 2004, benefits in some parts of Britain could be withdrawn from asylum-seekers whose applications had failed, giving rise to fears that families could become homeless and face the prospect that their children might be taken into care (The Guardian, 10 August 2005). From the government's point of view, controlling the numbers of asylum-seekers was a question of the integrity of borders and internal security. Its actions were variously heckled and supported by often sensationalist tabloid newspaper headlines likening the numbers of refugees coming (or potentially coming) to the UK as a 'flood', and linking asylum-seekers to criminal activity and terrorist threats (Huysmans 2005).

Concerns about the treatment of asylum-seekers centred upon the withdrawal of benefit rights and the undesirable conditions in which they were detained or maintained. These were matters of civil rights, along with concerns about the deportation of failed asylum-seekers to countries where they may face danger. A very different issue that nevertheless sometimes became linked to asylum-seeking (and indeed anti-terrorism legislation) was the government's proposal to introduce identity cards for UK citizens. The Identity Cards Bill of 2005 was seen by the government as a means to combat illegal immigration, fraud, terrorism, organized crime and theft of identity. Critics raised concerns about what the information on the identity cards (which would include biometric data on individuals) could be used for, and worried that their introduction could lead to the criminalization of many who refused to carry them. Many critics have viewed identity cards as potentially undermining the liberties of UK citizens.

Issues of asylum and identity cards have in recent years increasingly been linked to anti-terrorist measures. Often ill-informed commentary linked refugees to the import of the terrorist threat into Britain; and debates around identity cards have regularly included disputes about whether their introduction would or would not assist authorities in protecting citizens against terrorist threats on UK soil. But it is on anti-terrorist legislation itself that the most prominent debates about civil liberties have taken place.

There are four pieces of legislation which have defined the Blair Government's response to what it perceives as an immediate threat from terrorism.

First, the *Terrorism Act (2000)* built on prior laws arising from the longstanding situation in Ireland, offered broad definition of terrorism and associated offences, and gave power to proscribe organizations deemed to pose terrorist threats to the UK. It also enhanced powers to seize terrorist property and disrupt terrorist financial activity; granted police powers with regard to terrorist investigations (e.g. stop and search powers); created several offences specific to terrorism, such as fund raising, dealing with proscribed groups in various ways, and training terrorists; and required an annual report for the operation of the Act to Parliament

Second, the Anti-Terrorism Crime and Security Act (ATCSA) (2001) was passed in the wake of September 11 2001 and amounted to the first major response by the British Government to those attacks. The main provision of ATCSA concerned detention without trial of foreign nationals suspected of involvement in terrorism. The government saw extended detention as necessary, partly because international law prohibited the deportation of suspects where their lives may be in danger. At the same time, the government maintained that 'although law enforcement agencies may have strong grounds for suspecting involvement in terrorism, little of the evidence would be admissible in a criminal court or would be impossible to reveal in Court without exposing sensitive capabilities or endangering sources of information ('International Terrorism', Home Office). Further powers under the Act involved the creation of offences related to hoaxes involving dangerous substances and further tools to combat the financing of suspected terrorist activities. The Act also gave the police more powers to hold and question suspects. ATCSA was targeted by many for its overturning longstanding British judicial principles, particularly in its legitimizing of indefinite imprisonment of suspects without charge or trial. Detainees could not see the evidence against them or have it tested before a court in the usual way. There was a special secure court without a jury, the Special Immigration Appeals Commission (SIAC), to which a limited number of lawyers were allowed access, which could hear appeals by detainees. Eleven men were detained under the Act and were held in Belmarsh prison in south London, without charge. Nine appealed to the highest court in the country, the House of Lords, in the latter half of 2004. The detainees' lawyers argued that the relevant measures in the ATCSA 'were an affront to democracy and the intentionally accepted notion of justice' (The Independent, 5 October 2004).

The Law Lords, the highest court in the UK, ruled, in December 2004, that detention without trial as expressed under the Act contravened the European Convention on Human Rights as it allowed detentions 'in a way that discriminates on the ground of nationality or immigration status' by justifying detention without trial for foreign suspects, but not Britons. Britain has 'derogated' (opted out of) from the European Convention with respect to detention without trial. The convention allows such derogation under circumstances amounting to an emergency situation in face of imminent threat to the country. But the Law Lords were scathing in declaring this unlawful. Lord Hoffmann argued that 'The real threat to the life of the nation ... comes not from terrorism but from laws such as these' (quoted in The Observer, 19 December 2004).

Third, the Prevention of Terrorism Act 2005, passed by parliament after heated debate in April 2005, was effectively the Government's response to the House of Lords ruling on ATCSA. The Lords declared the sections of ATCSA which dealt with detention of foreign terrorist suspects incompatible with European human rights law on two basic grounds: it was discriminatory in that it singled out non British citizens, and that it was a disproportionate response that did not justify Britain opting out of the relevant European human rights laws. The Prevention of Terrorism Act essentially replaces detention of suspects by a process of 'control orders'. These control orders could take a variety of forms, the most stringent and controversial of which was 'house arrest' – a phrase commonly used in debates on the Bill but avoided by the Home Secretary, Charles Clarke, and his government colleagues. Unlike the detention provisions in the ATCSA, these control orders could be applied equally to British nationals and foreign suspects. As under ATCSA, there would be limited and restricted types of judicial involvement, but at the end of the day the Prevention of Terrorism Act grants power to the Secretary of State, acting under advice from the security services, to impose various restrictions on the liberty of individuals who could not be deported and who, if their cases were brought before the courts in the conventional manner, would be unlikely to receive sentences commensurate with the Home Secretary's view of the extent of the threat that their activities posed. With regard to the latter, the sensitive nature of the intelligence upon which these judgments would be made in the first place, and the inadmissibility of phone-tap evidence in the courts, also in the Government's view made use of the conventional court procedures inappropriate. After the Lords ruling on ATCSA, the Belmarsh detainees were released, but the majority of these men became subject to control orders under the new legislation.

Fourth, the Terrorism Bill (2005), the most recent anti-terrorism measure, put together in the wake of the attacks in London in July and working its way through parliament at the time of writing. Its central elements were heightened government powers to deport people from the UK who are considered to be promoting terrorism; the extension of powers to detain suspects for up to 90 days without charges being laid before a court; and a new offence of 'glorifying, exalting or celebrating' terrorism. The proposed legislation also targeted incitement of terrorism and the dissemination of material perceived to promote terrorism. Political opponents of the government, and civil liberties groups, expressed concern in particular about the increased detention provisions – a further challenge to basic principles of not being detained without due legal process, from their point of view – and about the ambiguity of 'glorifying' terrorism, which they feared might result in much wider restrictions on freedom of speech. Some critics asked whether open support for Nelson Mandela prior to the dismantling of apartheid in South Africa would have amounted to an offence under the proposed laws. The Blair government was defeated on one key proposal in the Terrorism Bill in November 2005 when the House of Commons rejected detention without trial for 90 days in favour of a lower period of 28 days. Initial media coverage focused on the whether this defeat, the first time the Labour government had lost a Commons vote, represented the beginning of the end of Blair's prime ministership.

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