# Re Tony Blair's twelve 'anti-terror' proposals

## Q Are the new powers necessary?

### *A. Wide powers already exist*

Wide powers already exist in respect of each area flagged up by the PM as needing new legislation or practices. It is the reasons for the 'failures' of those, if any, that require careful and detailed analysis, not new powers rushed through. It does not appear that the Prime Minister is aware of much existing legislation, eg:

**1. Deportation**
The Home Office can, and does already, deport or exclude people on the basis of activities that might endanger national security or involve criminal activity.

**2. Extradition**
Within the past year the government has already introduced 'fast track' extradition. All of the cases that have dragged-out proceedings are under the old law and have taken so long largely because of delays on the part of the Home Office (eg Rachid Ramda – the Home Office has taken five years to make a decision on his case).

**3. Control Orders**
The government has already introduced Control Orders to be used against British citizens in addition to foreign nationals – in March 2005. It has chosen not to apply them to anyone except the eleven foreign nationals who were interned without trial in 2001.

**4. Asylum**
Asylum is already not permissible for anyone involved in terrorism.

**5. Prosecutions for 'condoning or glorifying terrorism' or 'fostering hatred or advocating violence'**
These are available under existing law. the choice not to use them is that of prosecutors. For example, the Terrorism Act 2000 already makes it an offence to support proscribed organisations (eg Al Qaeda). It is an offence already to initiate any criminal activity, eg violence or murder and public order laws make behaviour likely to lead to public disorder unlawful.

**6. Proscription**
The banning of organisations involved in terrorism is already law under the Terrorism Act 2000. They first require evidence that they are 'terrorist organisations'. Beware the use of the term 'extremist'. It has no legal meaning, nor could it ever have. Beware vague terms that suit the accuser but are incapable of clear definition (a fundamental requirement in law).

**7. Mosques/bookshops/websites**
Again, beware. If an individual anywhere, whether by preaching in a mosque or by publishing materials breaks the law, then he can be prosecuted for the offence that is being committed. For a number of years a number of bookshops which have been targeted via the press, but not via police investigation, have expressed their concern that it

is not possible to find out what is legal or not. Again 'extremism' is not a term known to the law.

The talk of 'closing extremist mosques' suggests the Prime Minister cannot differentiate between individual responsibility and blanket across-the-board criminalisation. (The second approach is not permissible in law.) (In a recent trial in which a number of defendants had an association with Finsbury Park mosque, the prosecution itself emphasised that thousands of law-abiding persons worshipped at that mosque weekly. They did not and could not criminalise the mosque in its entirety.)

**8. Pre-charge investigative powers**
A seven-day interview period was already long. This has only very recently been doubled to fourteen days. There is no evidence that this is not enough to make decisions on whether to charge suspects or not.

### *B What is missing in these announcements*

1. A proper analysis of whether police achieve proper results within the vast powers that they already have and if not why not.

   a. There is no evidence that these are inadequate to investigate and prosecute those involved in any way in the incidents that have recently occurred. Daily reporting of the progress of police investigations since the time of each incident in July 2005 suggests that conventional police investigations are uncovering and achieving an extensive breadth and range of evidence. There is no suggestion by the police that they have been thwarted in any relevant investigation by any lack of powers. They have very clearly had more than enough time and opportunity to detain and question suspects and thereafter charge them if appropriate.

   b. Before claiming the need for these powers on the basis of the incidents of July 2005 it is important to have a proper open detailed factual assessment as to whether within the police powers already available, those responsible might have been detected earlier. It is important to know whether the police within their existing powers could have (and should have) suspected those involved at a far earlier stage. It is important to have the clear basic unvarnished facts in relation to this and other claims especially as there is a recent pattern of wrong claims (eg one claimed reason for invading Iraq was that there was a 'ricin' conspiracy in this country directly linked to a connection with Iraq. Only two years later was this claim revealed to be false at the trial of individuals prosecuted for involvement in that conspiracy.)

2. The UK is subject to internationally binding treaties that forbid the use of torture and ban returning individuals to countries that use torture. It is not possible for the UK to act in breach of those treaties without exiling itself unilaterally from the international community and furthermore such actions would in turn cause serious damage to the stability of essential shared commitments to minimum norms. The claim that 'diplomatic assurances' can be safely accepted which are in no way enforceable from countries where it is acknowledged torture is a basic practice is unsustainable.

### *C Further proposals*

The idea of secret courts with judges considering secret evidence arises now for the same reasons as all of the other measures above.

What is suggested as future legislation is a 'wish list' that police and intelligence services and governments would love to possess if there were no restraint upon their powers. There is one possible exception, the admissibility in court proceedings in the UK of phone tap evidence. What is extraordinary is that this is evidence whose use has been continuously long opposed only by the intelligence services.

We should not forget that the justification for secret courts in SIAC to consider the cases of people interned indefinitely without trial was in large part because phone tap evidence was not used in court here. What are now being demanded are secret courts and using phone tap evidence in normal court proceedings. Secrecy for 'intelligence' evidence is a recipe for yet more misleading claims that therefore go untested. There have been too many recent examples of deliberate manipulation of 'intelligence' for political purposes to think of bringing in 'secret' courts.

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