

# Joint Committee on Human Rights

## Committee Announcement

10 July 2018

### **'Serious concerns' that new powers in Counter Terrorism and Border Security Bill do not comply with Human Rights, says Joint Committee on Human Rights**

The Joint Committee on Human Rights today publishes a report highlighting "serious concerns" with the new powers in the Counter Terrorism and Border Security Bill currently going through parliament. An embargoed copy of the report is attached to this email.

The Committee, chaired by Harriet Harman MP and made up of MPs and Peers, is concerned that some of the new powers are too vaguely defined and do not have sufficient safeguards to protect human rights.

The Committee draws upon the written submissions it received as well as oral evidence from Max Hill QC, Independent Reviewer of Terrorism Legislation and Corey Stoughton, Advocacy Director at Liberty.

#### **The report concludes that:**

- **Clause 1:** The JCHR acknowledges the importance of the Government's power to proscribe organisations but is concerned that criminalizing 'expressions of support' for proscribed organisations could prevent debate around the Government's use of its proscription powers;
- **Clause 2,** which proposes to criminalise the publication of images online which arouse suspicion that a person is a member or supporter of a proscribed organisation (e.g. a photograph of an ISIS flag hanging on someone's wall posted to the internet) goes too far and also risks violating the right to freedom of expression;
- **Clause 3** criminalises viewing terrorist material online where such material is viewed three or more times. The Committee believes that this is a breach of the right to receive information;

- The Committee believes that there need to be greater safeguards for the increased period that the Bill gives for the retention of biometric data (such as fingerprints and DNA). At the same time as it increases the powers to retain data, the Bill abolishes the oversight of the Biometric Commissioner. This risks violating the right to privacy of persons who have neither been charged nor convicted;
- The Committee is concerned that powers to stop and search at ports are defined too widely. These powers can be used to stop people to decide whether they threaten the economic well-being of the UK; and
- On these grounds, the Committee has serious concerns that the Bill as it stands does not comply with Convention rights.

**The Committee therefore recommends that:**

- **Clause 1** of the Bill, at a minimum, is amended to clarify what expressions of support would or would not be caught by this offence and to ensure that the offence does not risk criminalising debates disproportionately: for example in a way which would prevent someone putting forward a case for why a particular organisation should no longer be proscribed;
- **Clause 2** should be deleted or at a minimum amended to safeguard legitimate publications (e.g. for journalists and other legitimate activity which should not be criminalised);
- **Clause 3** at the very least, should be amended to ensure that it only captures those viewing material with terrorist intent and to clarify the defence of reasonable excuse;
- The increase in maximum sentences for certain terrorist offences must be justified;
- The enhanced notification scheme for registered terrorist offenders needs stronger safeguards;
- The Prevent programme should be subject to an independent review;
- The removal of the Biometric Commissioner's oversight of DNA material and for extending the retention period from two to five years without clear notification and review options must be justified; and

- The stop and search powers must be circumscribed and subject to more robust safeguards.

**Harriet Harman MP, Chair of the Joint Committee on Human Rights, said:**

“The Government have got an important job to keep us safe from terrorism. But it must also safeguard human rights. The Committee believes that this Bill goes too far and will be tabling amendments in both the Commons and the Lords.”

**FURTHER INFORMATION**

- The Counter Terrorism and Border Security Bill follows the Home Secretary’s re-launched Counter-terrorism strategy after a year long review by the Home Office
- The Bill is proceeding very quickly, and the Committee plans to submit amendments to the Bill
- Some of the Bill’s provisions seem to risk a disproportionate interference with the right to privacy, the right to freedom of thought and belief, and the right to freedom of expression. Clause 1, for example, of the Bill criminalises ‘expressions of support’ without clearly defining what type of speech is caught by this provision. This could have a chilling effect on debate in the public interest. This clause risks catching speech that is neither necessary nor proportionate and violates Article 10 of the European Convention on Human Rights- the right to freedom of expression.

**Committee Membership is as follows:**

Ms Harriet Harman MP (Chair) (Labour)	Baroness Hamwee (Liberal Democrat)
Fiona Bruce MP (Conservative)	Baroness Lawrence of Clarendon (Labour)
Ms Karen Buck MP (Labour)	Baroness Nicholson of Winterbourne (Conservative)
Alex Burghart MP (Conservative)	Baroness Prosser (Labour)
Joanna Cherry MP (SNP)	Lord Trimble (Conservative)
Jeremy Lefroy MP (Conservative)	Lord Woolf (Crossbench)

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