



European Civil Liberties Network

## ***Essays for civil liberties and democracy in Europe***

### **There is no “balance” between security and civil liberties - just less of each**

*Ben Hayes*

#### **Introduction**

In a speech last month to the European Parliament, UK Home Secretary Charles Clarke made the following statements:

*“We now possess many hard-fought rights such as the right to privacy, the right to property, the right to free speech and the right to life. Those rights are actively threatened by criminals and terrorists...”*

*[I]t is necessary to look very carefully at the way in which the jurisprudence around application of the European Convention on Human Rights is developing. This Convention, established over 50 years ago in a quite different international climate has led to great advances in human rights across the continent.*

*[But] the view of my Government is that this balance is not right for the circumstances which we now face - circumstances very different from those faced by the founding fathers of the European Convention on Human Rights - and that it needs to be closely examined in that context”. [1]*

Clarke’s view is by no means a new one. At every opportunity since the onset of the “war on terror” governments have been quick to stress the need to “rethink” the balance between civil liberties and security. Many academics too are fond of this idea, promoting the hypothesis that it is now somehow necessary to “trade” a few of our civil liberties for “a bit more security”.

This is a myth that now masks a sustained attack on civil liberties by a state that has been growing more coercive and less democratic for decades. [2] It is true that it may be necessary to “balance” the rights of one individual against another (or society as whole) during the course of a trial, but how can there be a “trade-off” between (collective) liberties and (collective) security if both are in decline? The participation of UK forces in Iraq and Afghanistan and, increasingly, the conduct of the domestic “war

on terror” have made us less secure, while a host of parliamentary acts have made us less free. Less liberty, less security - just a more powerful state apparatus, and a more powerful executive.

This is what lies behind Charles Clarke’s contempt for the European Convention on Human Rights, and why his speech earned such an outraged response from Rene van der Linden, president of the Council of Europe parliamentary assembly, who attempted to remind those of us in Britain that the ECHR was drawn-up in the wake of the atrocities of World War II and German fascism as a set of *minimum standards* for the treatment of human beings by democratic states. [3] Times have changed only in that the powers the government now wants to combat terrorism (and other crimes) treat suspects and defendants below these 50-year-old norms. It is not criminals or terrorists that threaten human rights or give them their significance, but the actual and potential breach of those rights by the state. It is for this reason that Clarke praises only rights that rarely or never get in the way counter-terrorism policy. [4] And it is for this reason that the circumstances facing Clarke’s “founding fathers” are no different to those today.

#### **Overcompensating: UK counter-terrorism law before September 11**

In 2000, two acts of parliament gave the UK police comprehensive powers to prevent, investigate and prosecute acts of terrorism and place suspects under sustained surveillance: the Terrorism Act and Regulation of Investigatory Powers Act (RIPA).

The Terrorism Act 2000 made permanent decades of “emergency” terrorism law in spite of the ceasefire in Northern Ireland and has a number of features that make it among the most developed counter-terrorism legislation in the world: it extends powers of stop and search of persons and vehicles *without grounds for suspicion*; it allows police to interrogate suspects for up to seven (extended in 2004 to 14) days without charge; it allows premises to be

searched *without a warrant*; it allows the designation of “emergency” areas granting “special” powers to the police (London has been in a permanent state of emergency as far as the Act is concerned since September 11); it allows the Home Secretary to proscribe foreign terrorist groups, criminalising membership *and support*; it allows the prosecution in the UK courts of individuals accused of supporting or participating in acts of terrorism *anywhere in the world*; and it introduced a host of criminal offences that carry a maximum of 10-14 years in prison, including the possession of any article or document that *might* be used for terrorism, giving or receiving or terrorist training and supporting a terrorist group.

To this can be added to the provisions in RIPA which empowers the Home secretary - not the courts - to authorise the surveillance of all communications of an individual or whole group; allows all forms of covert surveillance without a warrant; and creates a criminal offence of failing to provide the police with an encryption key. [5] People often talk about the US PATRIOT ACT legitimising intrusive state surveillance but it does not even come close to RIPA.

So before September 11 the police had all powers required to investigate suspected terrorists, place them under intensive surveillance, and arrest and prosecute them as soon as any evidence to suggest any involvement whatsoever in terrorism came to light. This is not to say that efforts to improve security were not needed, just that these efforts should have centred on resource issues such as manpower, equipment and competence rather than sweeping new powers for the police.

## **Perverting the cause of justice: UK counter-terrorism law since September 11**

What has happened since 11 September 2001 mirrors precisely the discredited course of action taken by successive governments in Northern Ireland. First, we see the construction of a separate criminal justice system to deal with “suspected” terrorists. Second, measures introduced in the name of “counter-terrorism” or “security” are used for ordinary policing and public order situations. [6]

Internment was re-introduced under the Anti-terrorism, Crime and Security Act 2001 and the notoriously unlawful derogation from the right to a fair trial under the ECHR. On 15 December 2001, ten individuals were seized from their homes and taken straight to Belmarsh and Woodhill high security prisons. No one was told of their arrest and their families had no idea what had happened to them or where they had gone. By chance a number of them arrived on a landing in Belmarsh Prison where a remand prisoner who had a phone card was able to

phone his solicitor and inform her that a number of people had arrived, they were not being allowed to make phone calls, and they needed a lawyer urgently. Belmarsh refused visits until after Christmas.

In total 17 Muslim men were detained under ATCSA for up to three years without charge. Just prior to their release a medical report found “serious damage to the health of all the detainees”; [7] three were moved to Broadmoor (a high-security hospital) as a result of their detention. When the Act was declared unlawful by the House of Lords, parliament simply replaced internment with house arrest, twenty-four hour surveillance and control orders. Eleven of the ATCSA internees received control orders within days of the legislation being rushed through parliament.

The control orders system is only slightly less draconian than its unlawful predecessor. It is based, crucially, on the principle of secret evidence from the security services. This evidence has been found to be based on dubious testimony from informants (including terrorist “supergrass”), “evidence” obtained through torture or inhumane treatment (which is notoriously unreliable as well as unlawful), and material obtained through unregulated surveillance - all of which, for obvious reasons, the security services do not want tested in open court. As Gareth Peirce who represented some of the men interned under ATCSA explains:

*“all of this construct is created to avoid our constitutional protections of fair, public and open trial, by a jury of your peers, in which the most important aspect of all is that your accuser tells you at the earliest possible moment what the accusation against you is, so that you have the opportunity of replying. None of this construct can be improved or affected by amendments since the very purpose of the new legislation is to avoid these central obligations. Once the individual is branded [a terrorist], any information to justify the branding is considered behind closed doors.” [8]*

## **Covert investigations, secret evidence, executive decisions**

While there can be no excuse, ever, for the acceptance of evidence obtained through torture, [9] the Court of Appeal ruled astonishingly that as long as the UK was not complicit in the torture (i.e. it happened abroad) it can be used against terrorist suspects in Britain. In a world of extraordinary renditions and the well-documented “out-sourcing” of torture [10] this judgment was an affront to human rights.

Again, Gareth Peirce explains why:

*“We should not be deceived. What is happening in*

*Guantanamo; what is happening in the secret hearings with foreign nationals already taking place in this country; and what is proposed for the future, is in the nature of an ongoing experiment. This is the pooling of access to internationally condemned methods of investigation. Since their utilisation will be covert, the overt experiment is into how willing the public of this country and those concerned in the passage of legislation are to allow basic safeguards to be jettisoned without protest.” [11]*

The current attempt to introduce detention without charge for three months for “suspected terrorists” is merely the latest test of the boundaries for this grotesque experiment.

Executive powers, generally reserved to the Home Office, have developed in tandem with those for the police; both come at the expense of the criminal justice system. The Terrorism Act 2000 allows the Home Secretary to ban foreign terrorist organisations but offers proscribed organisations only a limited form of appeal to a special tribunal (secret hearings, secret evidence, special procedures etc). It is clear that the proscription of a number of the groups on the list (currently 25 though 15 more are pending at the time of writing) [12] is not about disrupting their activities - particularly since few are active in, or pose any threat to the UK - but about appeasing foreign governments by prosecuting their political opponents in Britain. This often means that people who have been exiled from their own countries for their political activities and then recognised as refugees in the UK for this reason are now again being prosecuted for their political beliefs. It does not matter if these people were exercising what most people see as a legitimate right to resist occupation and tyranny because Charles Clarke can not think of any situation in the world where “violence would be justified to bring about change”. [13] So the illegal invasion of Iraq by the US and UK was justified, but the Palestinian *Intifada*, for example, is not. This position is not just hypocritical: the criminalisation of liberation struggles brings with it the criminalisation of solidarity. [14]

## **Unacceptable behaviour**

Under the latest raft proposals it will also be for the Home Secretary to decide which kinds of “terrorist” acts it will be illegal to “glorify” in accordance with the planned new offence of “glorifying terrorism” - a blatant clampdown on one of Charles Clarke’s “hard fought” rights. And it is the Home Office that has drawn-up a list of “unacceptable behaviours” which will be grounds for deporting individuals who the Home Secretary believes have behaved unacceptably. This list could hardly have been cast any wider:

*writing, producing, publishing or distributing material; public speaking including preaching; running a website; or using a position of responsibility such as teacher, community or youth leader to express views which: foment, justify or glorify terrorist violence in furtherance of particular beliefs; seek to provoke others to terrorist acts; foment other serious criminal activity or seek to provoke others to serious criminal acts; or foster hatred which might lead to inter-community violence in the UK. [15]*

Add to this the Nationality, Immigration and Asylum Act 2002, which gave the Home Secretary the power to strip UK citizenship from any individual with dual nationality on national security grounds (the so-called “Abu Hamza law”, a law that spectacularly failed to strip Mr. Abu Hamza of his British citizenship).

Tony Blair and Charles Clarke are adamant that neither the courts nor the ECHR will stand in the way of their desire to deport Muslims that they believe are guilty of “fermenting hate” (let us be clear that this is who the law is aimed at). Never mind that these people have entered and resided in the UK lawfully, have not been convicted of any criminal offence, or face likely torture upon their return to the regimes they have fled. No-one can disagree with the principle that people who are guilty of inciting or planning acts of terrorism in this country should be expelled, but it should *always* be for the courts and not the executive to decide who is guilty of what.

None of the men seized in the recent and well publicised raids on “terrorists” who face deportation at the Home Secretary’s behest appear to have been convicted of involvement in terrorism or any related offence by the UK courts - non-nationals imprisoned for most criminal offences *are routinely deported anyway*. What has happened with the “security deportations” is that first, the police rounded-up the “usual suspects” - the mainly Algerian men who had long been interned in Belmarsh and then placed under house arrest with control orders. Back in prison pending deportation one of the men attempted to hang himself last month. These arrests (and the suicide attempt) in the wake of the July 7 bombings, reflect a desperate desire on the part of the government to be seen to be doing something, regardless of whether it is the right thing. This does not inspire confidence in the handling of the terrorist threat.

But it is the latest “terrorist” arrests pending deportation that really incense. In April this year more Algerian men were acquitted of any involvement in the “ricin plot” in near farce because of the astonishing lack of evidence presented by the prosecution - it was a far cry from when Tony Blair and Colin Powell cited the “foiled

plot” in their justification for invading Iraq. On 15 September 2005 the acquitted, who are recognised as political refugees by the UK, were re-arrested pending deportation to Algeria. This prompted three of the jurors in their trial to take the brave and unprecedented step of repeating their unequivocal view that the men were completely innocent and condemning the arrests in a BBC documentary. [16] “Police state” said one, using words that should be used lightly by anyone - but what else can be said about the seizure of men acquitted by the courts only to be incarcerated and banished to face likely torture on the say so of a government minister?

## Special powers, ordinary policing

The host of “special powers” to combat “terrorism” or increase “security” include a number of measures that are applied to or geared entirely toward “normal policing”. A situation predicted by civil liberties groups is the routine use of terrorism legislation to combat demonstrations and to stop-and-search protestors. [17] The Serious Organised Crime and Police Act 2005 can also be mentioned here, including as it does the now infamous clause banning demonstrations within a kilometre of London’s parliament square (the “Brian Haw law”, not the first time that parliament has passed a law aimed at a single individual that threatens the rights of many). [18]

New Labour’s latest take on “unacceptable behaviour” saw an 82 year-old delegate being dragged from last month’s party conference for shouting “nonsense” during Jack Straw’s speech on Iraq (not the first time a Labour heckler has been swiftly dealt with by burly security guards). Things went from bad to worse for the government as it emerged that not only was this expellee a life-long party member who had come to Britain after escaping the Nazi regime, but that he had subsequently been questioned by the police under Section 44 of the Terrorism Act.

Terrorism has also been used to justify sweeping changes to the extradition system. In 2003 the UK government signed, in secret, with no prior consultation of parliament, a new extradition treaty with the United States. This treaty has the effect of removing the obligation on the US to provide *prima facie* evidence when seeking the extradition of people from the UK (including UK nationals), not just for terrorism but for any offence punishable by a year or more in prison. But while the US need now only supply a statement of the facts to extradite someone from the UK, the UK must still supply *prima facie* evidence when seeking to extradite someone from the US - it is entirely and inexplicably one-sided. [19] The UK implemented the treaty on the back of the European Arrest Warrant implementing legislation in 2004; the US has not even bothered to ratify it (so the 1972 rules still

apply where Britain wants to extradite). The US has since filed a number of blatantly unjust extradition requests to the UK in accordance with new treaty. The extradition system is obviously further undermined by the very real prospect of “security deportations” and “rendition” in place of the judicial process.

In 2004 the Civil Contingencies Act was passed, giving the government of the day the power to impose what pretty much amounts to martial law during “emergencies”. Again, these are not limited to terrorist attack, war or natural disaster but defined much more broadly as any “event or situation” which threatens “serious damage” to “human welfare”, “the environment” or “security”. This Act takes powers devised during the Second World War to a new level. During future emergencies the government will be able to pass law without consulting parliament.

The Inquiries Act 2005 is not unrelated to the “war on terrorism”. This Act does away with many of the key features of “public inquiries” as we once knew them. Parliament can no longer authorise a public enquiry, only the government of the day. And it is for that government to decide the terms of reference, appoint the judge, decide whether proceedings and reports should be public, and terminate the “public enquiry” at any stage. As things stand it is safe to say we will not see the likes of even the limited Hutton inquiry again, though this - based in no small part on Blair’s ignominy for that inquiry - was the purpose of the Act.

Finally, the ID cards bill will bequeath the police a dedicated, updatable population register and fingerprint database and encourage yet more stop checks on “suspect communities”. This despite both Clarke and Blair freely admitting that “all the surveillance in the world” could not have prevented the London bombings. The principle that democratic societies only fingerprint criminals has endured the world over for more than a century. It has now been replaced at a stroke by the wisdom that we should fingerprint entire populations, proving that we really are all suspects now.

## Laws of diminishing return

It is fundamental that the current government be held to account over both the war in Iraq and the domestic “war on terror”. The former is a “recruiting sergeant” for al-Qaeda and a breeding ground for future terrorism and the latter is detrimental to rights and liberties. If “all the surveillance in the world” can not prevent four young British men unknown to the police or security services blowing themselves up in rush-hour London crowds, what can? What are the lessons that should really be drawn from this tragedy?

The only thing we can be sure of is that “7/7” was a



political act inspired directly by the war in Iraq. [20] This first lesson is alas one that the government can only deny - that *UK foreign policy is capable of provoking this kind of reaction*. Quite how the four were “radicalised” and how they acquired the expertise to carry out the attack is still unknown, but the failure to yet find any “mastermind” behind the conspiracy is irrelevant. The age-old second lesson is a cliché: it’s the quiet ones you have to watch. And while the government admits that you can’t possibly watch everyone, this is the course it is pursuing (never mind that if you are watching everyone, you’re really watching no-one). The only role here is for families and communities, none of whom want their children to grow-up to be suicide bombers.

While the government professes to be reaching out to the Muslim and Asian communities in Britain, it is instead embarking on a “war on Islamic extremism”. This new front in the “war on terror” is based on the premise that the four young British men who carried out the bombings were “brainwashed” by predatory “extremists” (a view that is understandably shared by their families). The idea of a terrorist mastermind, preferably an “al-Qaeda lieutenant”, who recruited these men at a “radical Mosque” and then “brainwashed” them is inherently more palatable than the idea that these young British men were driven to do this by their sense of injustice (and that others might be so again). But it is a pretext for the claim that London was attacked not because it has troops “defending an emerging democracy in Iraq”, but because Britain has for too long been allowed to become a haven for “Islamic extremism”. “The hate that surges through the Islamic world surges through London” is how George Bush’s former speechwriter put. Tony Blair was only slightly more subtle, blaming the bombings on “their barbaric ideas”:

*“They demand the elimination of Israel; the withdrawal of all Westerners from Muslim countries, irrespective of the wishes of people and government; the establishment of effectively Taliban states and Sharia law in the Arab world en route to one caliphate of all Muslim nations.” [21]*

This inflammatory distortion of why Britain was bombed - by its own - is what underpins the new “war on Islamic extremism”. It is the basis for banning non-violent, political organisations like *Hizb-ut-Tahrir*. It is the basis for rounding-up the “preachers of hate” and, in doing so, making martyrs of the loudmouths who, as any criminal intelligence analyst will tell you, are not the serious players. It is the basis for the government promise to shut down Mosques, Islamic bookshops and community centres. It places the blame for the 7 July bombings squarely at the door of Islam. It involves telling Asian youth, repeatedly, that - contrary to the Race Relations Act - they can and

should be expected to be disproportionately stop-and-searched. It involves citizenship tests and an “integration commission” based on the premise of assimilate or leave. And it encourages the view that “multiculturalism is dead”, if only to disguise a government bent on killing it.

## Groundhog day

Another thing that every intelligence analyst will tell you is that the best intelligence is human intelligence. It is for this reason that former employees of the security services have recently been queuing up to voice their concern that the conduct of the domestic “war on terrorism” is jeopardising the flow of intelligence from the Muslim community. They know very well that Bloody Sunday, internment and “shoot-to-kill” united the catholic community behind the IRA and led men to enlist in their hundreds. Of course, Muslim communities in Britain will never unite behind al-Qaeda, but every-time police officers are racist toward Asian youth, every time a house or Mosque is unjustly raided, and every time Islam is demonised by the government - genuine counter-terrorism is undermined while the likelihood that the terrible events of 7 July will be repeated increases.

Anyone who has thought critically about the development of the UK criminal justice system in recent times will see the parallels between the evolution of the “war on terrorism”, the “war on drugs” and the unspoken “wars” on other crimes such as “illegal immigration” and, more recently, the war on “anti-social” behaviour [22]. In each case the principle is that these social phenomena can only be solved by increased policing and punishment. In each case we have seen the creation of a shadow criminal justice system (with the arguable exception of the “war on drugs”) and in each case there is no attempt (or comparatively only very limited resources) to address the “root causes”. As a result all these “problems” are worsening because the current government is unable countenance anything other than the increasing use of force in pursuit of the same discredited course of action. Repressive laws, more prisons, more criminals (less liberty, less security).

## A great British export

For those of us who care about the preservation of civil liberties and democracy in Britain the domestic assault on the criminal justice system is only half the problem. “Osama Bin Laden has done more for security cooperation in the EU than Jean Monet”, to use the particularly crude words of one European Commissioner. The European Union, like the British state, is taking liberties at an alarming rate.

At the heart of the EU’s counter-terrorism policy is the 2002 Framework Decision on terrorism which

means that all EU member states now share a common definition of terrorism that could be applied to almost any act of violence. This despite the fact that many of them have never experienced “terrorism”. The hastily agreed Framework Decision on the European Arrest Warrant (also 2002) ushered in a new fast-track extradition system at the expense of procedural safeguards for suspects, including the possibility for their lawyer to contest the allegations against them in domestic court.

It is therefore particularly galling when Tony Blair announced, in the wake of the July 7 bombings, that “cases such as Rashid Ramda wanted for the Paris metro bombing ten years ago and who is still in the UK” are “completely unacceptable”, we “will set a maximum time limit for all future cases involving terrorism” [23]. The real reason Mr. Ramda is still here is that the Home office has taken *five years* to make a decision on the case. As for the time proposed time limits, the EU Arrest Warrant legislation has already set a 60 day deadline and since it entered force UK procedures now last a mere 17. It is sheer nonsense to suggest that the rules could possibly be tightened any further.

Then there are the four EU treaties with the United States, on mutual legal assistance, extradition, Europol and Passenger Name Record (PNR) data - all of which were agreed with no parliamentary debate. All of these treaties give US authorities *de facto* powers over EU citizens at the expense of the protection of the ECHR. The PNR treaty means that the US authorities now have direct access to airline passenger reservation databases in Europe (something many domestic EU police forces did not have). Encouraged by this agreement, the EU has agreed an internal system that will lead to the profiling of all air travellers into, out of, and across the EU. [24]

The EU has also agreed that every passport holder, every legally resident third-country national, every visa applicant and every refugee in the EU will be fingerprinted and their prints and personal data will be held in first national, then in EU-wide police databases. This legislation is behind the drive for mandatory fingerprinting in the UK and part of the reason that from late next year you will have to an “enrolment centre”, be photographed, fingerprinted and possibly interviewed in order to renew your passport. Faced with this reality, how will the public react? The prospect that this unprecedented invasion of privacy will pass unopposed is testimony to a slide toward authoritarianism, or “democratic authoritarianism” as it has been called.

The same can be said of two further proposals. First, the long-standing EU proposals to introduce obligations on all service providers to preserve *all* telecommunications traffic data - including all call records, internet usage and mobile phone location

data - must for at least one year for any law enforcement purpose. Second, the latest proposals that all police information held by one member state should be available to law enforcement agencies in all the others - the so-called “principle of availability”.

### “Policy laundering” and “softening-up”

There is an implicit link between developments in the UK and developments in the EU, and that link is the UK government. Its permanent representatives in Brussels are engaged, shamelessly, in what is called “policy laundering”. This means pushing authoritarian measures at the EU level and then, once they are adopted, telling parliament and the public that it has no choice but to implement these measures to meet our obligations under international law.

Another approach that has been swallowed by the London and Brussels parliaments is “softening-up”, described here by Seamus Milne:

*“As negotiating tactics go, it’s a pretty transparent one - but it still seems to work every time in British politics. The government has a policy it knows will arouse a blizzard of controversy. So it starts out with a maximalist, even outlandish, version. When that is predictably greeted with outrage, it retreats crab-like to its core position - and the final outcome is then accepted with relief that the government has compromised. But the net effect is to drive through measures that might have been thrown out without the softening-up process.” [25]*

Exactly the same thing happens in the EU. As a consequence the European Union is starting to display some of the worst excesses of the Cold War era: the mandatory surveillance of communications, the surveillance and restriction of movement, mandatory population registers and security files, and of course, central planning. This is not to mention the complicity of most EU member states in the construction of a US-constructed global gulag that stretches from the detention centres and airstrips of Europe to Diego Garcia, across Afghanistan and Iraq, through a host of repressive regimes and on to Guantanamo Bay.

### Positive demands

The defence of civil liberties and democracy requires that positive demands are placed on the agenda. But it is no longer sufficient to simply demand that security and terrorism policy “respect” human rights and other democratic standards because “the rules of the game” are changing. It is now necessary to undo the damage already done in the name of the “war on terror” and redraw the “line in the sand” that the ECHR is meant to represent.

In the wake of atrocities like the July 7 bombings (and there surely be more) we should be asking not what new powers the police and security services require, but if they are using their existing powers properly. “Intelligence failures” and the “shooting-to-kill” of Jean Charles de Menezes clearly suggest otherwise. The British government must be held to account - over the conduct of the “war on terror” at home, over the Iraq war, and over the authoritarian trajectory of the European Union.

*Ben Hayes is a researcher with Statewatch and joint coordinator of the European Civil Liberties Network*

## Footnotes

1. Speech by Charles Clarke, 7 September 2005, full-text available at: <http://www.statewatch.org/news/2005/sep/03clarke.htm>.

2. Hillyard, P. & Percy-Smith, J. (1988) *The coercive state: the decline of democracy in Britain* (London: Fontana)

3. “The Convention was drafted in the immediate aftermath of the bloodiest, most destructive war the world has ever seen. It is not a luxury for times of peace, but a necessity to prevent tyranny and conflict.” Council of Europe Parliamentary Assembly Communication Unit, Press Release, 9 September 2005: <http://www.statewatch.org/news/2005/sep/04coe-clarke.htm>

4. Note that Mr. Clarke makes no mention of the right to a fair trial or the ban on torture and inhuman or degrading treatment.

5. The difficulty in accessing computer data is one of the reasons put forward by the police for extending detention without charge for terrorist suspects to three months.

6. See Paddy Hillyard’s essay in the ECLN collection: <http://www.ecln.org/essays.html>.

7. “Damage to the mental health of Belmarsh prisoners detained under the 2001 Anti-Terrorism legislation,” October 2004: <http://www.statewatch.org/news/2004/nov/belmarsh-mh.pdf>

8. “A stampede against injustice”, Gareth Peirce, *Guardian*, 8 March 2005.

9. This has not prevented government lawyers making such claims.

10. See for example “U.S.-Held Prisoners Transferred Abroad Subjected to Torture”, Michael Ratner and Scott Harris, *Between the Lines*, 22 February 2005: [http://www.zmag.org/content/print\\_article.cfm?itemID=7292&sectionID=40](http://www.zmag.org/content/print_article.cfm?itemID=7292&sectionID=40)

11. “This covert experiment in injustice”, Gareth Peirce, *Guardian*, 4 February 2004.

12. Note that the EU and UN also have “terrorist lists”, criminalising hundreds of groups and individuals, see *Statewatch’s* terrorist list site: <http://www.statewatch.org/terrorlists/terrorlists.html>.

13. Cited by Seamus Milne, “This law won’t fight terror - it is an incitement to terrorism”, *Guardian*, 13 October 2005.

14. See “Terrorising the rule of law: the policy and practise of proscription”, Ben Hayes (2005), available on *Statewatch’s* terrorist list site (see note 12, above).

15. Home Office consultation document, 5 July 2005: <http://www.statewatch.org/news/2005/aug/ukdeportation.pdf>.

16. BBC, 16 October 2005.

17. See <http://www.statewatch.org/news/2005/apr/uk-stop-and-search-2005.pdf>.

18. See <http://www.parliament-square.org.uk/about.html>.

19. See <http://www.statewatch.org/news/2003/jul/25ukus.htm>.

20. Repeated surveys show that a clear majority of the UK public believe in this link and surely no one who has seen the video made by Siddique Khan can dispute this: <http://english.aljazeera.net/NR/exeres/B22D0ADF-D0EB-4DC0-9C6E-7671F19CD589.htm>.

21. Speech by Tony Blair to Labour party national conference, July 2005.

22. See Max Rowlands’ essay in the ECLN collection: <http://www.ecln.org/essays.html>.

23. Statement by Tony Blair, 5 August 2005, <http://www.statewatch.org/news/2005/aug/02pm-terror-statement.htm>.

24. See “The emergence of a global infrastructure for mass registration and surveillance”, ICAMS report (2005), <http://www.i-cams.org/>.

25. See note 13, above.

## European Civil Liberties Network (ECLN)

contact: [info@ecln.org](mailto:info@ecln.org)  
website: <http://www.ecln.org>

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