

# Antiterrorism, crime and security act 2001



**ASSIGN  
BUSTER**

In order to evaluate this statement we must firstly identify what a civil liberty is. In a simple sense 'liberty entails non-interference by others with ones freedom of choice and action'<sup>2</sup>. There is no agreed way in which civil liberties are separated from other types of liberties; however the word civil is used to describe a relationship between an individual and the state<sup>3</sup>.

'Describing something as a civil liberty therefore indicates that one thinks that the state has a special obligation to protect one against interference with it'<sup>4</sup>. Therefore this means that our government should be attempting to protect and preserve the civil liberties we are entitled to. Having established what a civil liberty is we must now identify what measures have been introduced by the Government under new legislation which may have an impact upon the rights we are at liberty to have. Most domestic legal systems will have provisions which aim to protect the society at times of war and during emergencies<sup>5</sup>. These measures quite often allow authorities to compromise civil liberties, and are generally imposed when there is a threat of terrorist activities<sup>6</sup>.

Powers in situations like these usually permit greater interference with rights such as liberty, fair trial and freedom of speech, movement, association and assembly<sup>7</sup>. The issue in situations like this is whether or not the Government is permitted to do this. Should the Government not pay more respect to the guidelines that have been laid down in the Human Rights Act 1998 The most recent developments in the law with regards to terrorism come from the Anti - Terrorism, Crime and Security Act 2001<sup>9</sup> and the Prevention of Terrorism Act 2005<sup>10</sup>. These two pieces of legislation have had a dramatic influence with regards to the rights and freedoms of people living in today's

society and are a clear example of the debate regarding anti terrorism laws and the protection of our rights and liberties. It is the general view of organisations such as ' Liberty' that ' anti-terrorism measures have done little to ensure Britain is safe and secure from terrorist attacks, but much to infringe the civil liberties of those living in the UK'11.

Firstly the Prevention of Terrorism Act 2005<sup>12</sup> allows control orders to be imposed upon certain individuals, providing that the Home Secretary has reasonable grounds for suspecting that they are involved in terrorist activities. Control orders can involve placing individuals under house arrest, order curfews, restrict the use of both telephone and internet access, order electronic tagging and place restrictions on association, all of which can be done without charge or a fair trial<sup>13</sup>. As well as these orders the act also deals with people who may glorify terrorism, it allows for the deportation of foreigners deemed ' extremists', and aims to criminalise speech that amounts to indirect incitement. The powers permitted also allow for the closure of places of worship used to foment extremism<sup>14</sup>. All of this can again be done without any charge or trial. So are these measures that are being implemented justifiable? Read about antiterrorism awareness

On the surface it would appear that many civil liberties of those living in the UK are being sacrificed to combat the threat of terrorists. If we look closer at how these measures are affecting our liberty as human beings we see that many of our rights contained within the human rights act come under threat. The most obvious right that could be affected comes from the use of house arrest and curfew orders, which harbor a severe restriction on our right to liberty<sup>15</sup>. This right can be found under Article 5 of the Human rights Act 1998<sup>16</sup>. The

criminalisation of speech which glorifies terrorism leads to an infringement on our right to free speech and freedom of expression contained under Article 10 of the European Convention on Human Rights. In addition to this, the powers given by these acts can infringe others rights such as the right to respect for private and family life, the right to freedom of assembly and association and the rights to freedom of movement.

So do the new anti - terrorism measures protect us or simply infringe our rights and liberties? First of all it seems clear that ' the threat from terrorism raises important issues concerning the balance between civil liberties and measures to protect us from terrorist attack'17 and as a result of this ' it is the first job of the Government, as well as the essence of our democracy that we safeguard the rights, freedoms and liberties of the people of society, the most basic of which is to live safely and peacefully'18. Could we class living in constant fear of terrorist attacks living peacefully? Most probably the answer to such a question would be no, and thus it has been argued that ' the greatest civil liberty is the right to live and be free from terrorist attack'19. Consequently of which we require these anti-terrorist measures to be in place in order to provide us with the reassurance that we are battling terrorism and as a society will do everything in our powers to stop it.

Following a similar line of argument it has been claimed that if you were bombed by a terrorist, what would your liberty be then? 20 Quite simply you would have lost a lot more than your liberty. Therefore the only way to truly protect us is to slightly infringe upon certain rights to provide us with a safe and secure environment where we can enjoy our liberties to the fullest.

The question could be asked how these measures would infringe someone who has no link with terrorism. The provisions found within this legislation deals with people who are in someway involved or have been involved with terrorism, whether directly or simply through verbally supporting it. Is that the type of person who we want living amongst us in our society, someone who supports events such as the 9/11 and 7/7 bombings. Following these arguments the measures in place are clearly justifiable. It can also be argued that the legislative measures, outlined in the Prevention of Terrorism Act 2005<sup>21</sup>, do not infringe upon our rights, they will in fact protect and enhance them<sup>22</sup>.

After all these measures will help to prevent terrorism which will allow members of society to enjoy their rights and civil liberties to their fullest extent. They will protect our right to liberty and allows us to enjoy further liberties such as our right to freedom of speech as a result. Finally some people have taken the view that the new terrorism measures will make small communities as well as the country as a whole a safer place to be, and take a step towards strengthening democracy<sup>23</sup>. As always there are two sides to every story and there are however many strong arguments which take the view that terrorism measures simply infringe our rights. First of all it can be argued that yes 'terrorism should certainly be stopped but not at the expense of our freedoms'<sup>24</sup>. If we give up our freedoms are we not giving victory to the terrorists, allowing them to dictate how we live? Human Rights are not a 'pick and mix' of entitlements, they are the foundation of a democratic society and so a violation effects society as a whole<sup>25</sup>.

' Civil liberties are not an extra to a safe, happy country, they are fundamental to our security'<sup>26</sup>. Without our liberties there is nothing to protect us from corruption which could lead to the downfall of our well established society. One argument put forward is that ' nothing short of charging people with an offence and fully granting them their right to be tried by an independent court can remedy the profound injustice and affront to human rights contained within this Act"<sup>27</sup>. Clearly the only fair way to hold someone prisoner is to charge them with an offence and give them the opportunity to defend themselves in front of a court of law, after all everyone should be presumed innocent until proven guilty, no matter what the offence.

The fact of the matter is that ' depriving people of their liberty without even putting people on trial is plain wrong'<sup>28</sup>. Allowing detention without trial, such as house arrest, is another example of how the new measures are unfair and unjust. It is the same situations described before, no matter how serious a crime may be that they are accused of they should still be given the chance to defend themselves, nothing should take away that right. If these people are guilty and there is evidence to prove so then they will be found guilty, if not, then they should not be detained as if they are. ' These measures have the potential to undermine centuries of democratic tradition and are likely to be disastrously counter-productive'<sup>29</sup>.

There are some doubts as to what these measures will achieve with regards to aiding the battle against terrorism. It has been argued that ' crime and terror would be better addressed with 10, 000 more police and a national border force, rather than wasting? 30 billion on measures such as ID cards

which did not protect people in the United States or in Spain<sup>30</sup>. Actions such as this would probably be seen as more productive by a lot of people within the UK and arguably would provide a more effective combat to terrorism than some measures being put in place today. So what does all this mean? Well ' The government has a duty to defend everyone in this country from terrorism as well as a duty to safeguard hard - worn human rights' . 31. The difficulty comes when they have to balance the two aspects.

There are definitely certain areas which can be deemed as unjust, most notably the fact that ' these measures are retaining people for lengthy periods of time without ever having been charged or been on trail<sup>32</sup>. No matter which way you look at it this seems a bit severe considering the person held could be totally innocent. Therefore it can be said that ' these measures undermine the very democracy that this Government say they want to defend<sup>33</sup>. However it can also be argued that the government has taken these measures to protect the people living within the UK and allow us to live liberally. Many valid points have been raised for both sides of the argument and there will never be a truly correct answer to whether the powers are just and fair.

The government however feels that they have justifiable reasons for introducing these powers, and consequently that is why we have the recent legislation in place. Only time will tell us whether it will provide a useful tool in the global battle combating terrorist activities.