

Campaign Against Criminalising Communities (CAMPACC), www.cacc.org.uk

Submission to the Privy Council Review of the Anti-Terrorism Crime and Security Act 2001
(ATCSA 2001)

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Terrorising Minority Communities with ‘Anti-Terrorism’ Powers: their Use and Abuse

Full statement of August 2003

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1. CAMPACC: who we are

The Campaign Against Criminalising Communities (CAMPACC) was formed in March 2001 in response to the banning of 21 organisations under the powers of proscription contained in section 3 of the Terrorism Act 2000. As the name indicates, it is the view of this organisation that the legislation has the effect of intimidating and criminalising communities, rather than protecting the public. CAMPACC sees the anti-terrorism legislation as part of a political agenda aimed at controlling and restricting the rights of migrants and refugees, who became the main focus of the security services as the peace process developed in the North of Ireland. With its powers of internment of foreign nationals only, the ATCSA 2001 is a culmination of a process that has seen the entrenching of discriminatory legislation against minorities and migrants, thus allowing for unequal treatment in matters of social welfare, education and citizenship rights. With ATCSA 2001 this agenda encroaches on the fundamental right to liberty and fair trial procedures. The Campaign has brought together individuals and groups from communities which find themselves targeted by so-called ‘anti-terrorism’ legislation, lawyers, other human rights activists and increasingly members of the public who are concerned about the civil liberties implications of the so-called ‘war on terror’.

The ATCSA Review has already received excellent submissions which analyse and criticise unjust and unjustified aspects of the legislation particularly from a legal and human rights perspective. We adopt many of those criticisms, but this submission seeks to draw upon the broader experience of many people who have actually been affected, directly or indirectly -- far more than those who have been arrested under the legislation. Much information in this

document is being made available for the first time; it has been obtained through contact with people affected by the legislation or with their lawyers.

Although the Privy Council Review focuses on the ATCSA 2001, our submission also includes the role of the Terrorism Act 2000, for at least two reasons:

(1) It has framed the powers and use of the ATCSA 2001, and the two pieces of legislation are integral to the other given that the Terrorism Act 2000:

- broadened the definition of terrorism to encompass a wide range of political activities;
- established crimes of suspected association with so-called terrorism;
- authorised extra police powers of detention and surveillance in the name of investigating so-called terrorism.

(2) The use of the Terrorism Act 2000 is indicative of the way in which the extended powers of the ATCSA has been and may be used in the future.

Moreover, the further powers of the 2001 Act are exercised in the same climate of 'terrorism' scare stories. These are given further credence by arresting people under 2000 Act, in circumstances where they could just as well have been arrested under the ordinary criminal law or immigration law. And both laws extend features of earlier legislation which created a separate regime for migrants and refugees, though use of the powers also affecting long-standing ethnic minority communities.

Our evidence challenges the official rationale for the legislation -- i.e. protecting people from organised violence. We identify the anti-democratic purposes and racist prejudice which drive its political use. That use serves to entrench a more general racism in this society. For those reasons, our submission focuses upon actions of state authorities and their effects.

2. Communities stigmatised as terrorist networks

Racist culture of suspicion

While preparing this submission for the Privy Council Review, we were advised to propose alternative means for the government to detect and prevent terrorist activity. That advice begs the question of what is meant by 'terrorism' -- a crucial starting point for any response. As we argue later on, the ordinary criminal law provides ample powers to protect the public here from violence. As regards organised violence outside Europe, the 'war on terror' has blurred any distinction between attacks on the public and resistance against state oppression, in order to stigmatise and criminalise the latter. So our document does not propose alternative means to solve a false problem, though here we do address its assumptions.

The British state has been promoting a culture of suspicion directed at migrant and refugee communities, and since September 11th 2001 especially the Muslim community, thus fuelling racist prejudice and anti-immigrant/minority feeling in the country. Throughout Europe, a 'climate of hysteria is encouraging immigration officers to act on suspicions based on little more than religious stereotyping' (Fekete, 2002, p.12). A similar climate drives 'anti-terrorist' measures. Communal, friendship and political networks of minority groups are readily stigmatised as 'suspected' of terrorism or 'associated with' terrorism -- i.e., with hypothetical activities, somewhere, sometime. Even small amounts of money are treated as suspect of 'terrorist finance'.

By contrast, the law does not cast suspicion on violence promoted by governments or companies. For example, British Petroleum has funded the Colombian Army's 6th Brigade, infamous for assassination of political activists. The DTI's Export Credit Guarantee Department has funded the sale of arms which are used to terrorise civilians, e.g. in East Timor, as well as 'development' projects which can be carried out only by dispossessing local

residents. To protect such economic interests and projects from public protest, many governments carry out systematic violence against their own people.

Such transactions and activities are rarely subjected to similar (if any) official scrutiny reserved for alleged terrorism against states. Why? Because the 'anti-terror' laws are limited to the activities of non-state actors, they encompass groups and organisations resisting oppressive states, many of which have close economic, strategic or diplomatic relations with the UK and other Western governments. Anti-terrorism legislation in effect is used as a foreign policy tool, as a means of silencing and controlling the critics of 'friendly' states. The implications have been described by one commentator as follows:

The War Against Terrorism is leading European governments to embrace those countries that, in practicing state terror, create the very culture of repression which drives oppositional groups towards rebellion and may lead them to respond to terror with terror tactics of their own (Fekete, 2002, p.9).

As we show below, the UK 'war on terror' at home is leading this country in particular and Europe overall in such a dangerous direction.

Joint police-press operations

As part of the 'war on terror', the public has been encouraged to fear foreigners, especially those from Muslim countries. As in Orwell's *1984*, permanent propaganda campaigns have continually invented enemies to justify a perpetual war. Imaginary links have been drawn between Iraq, Al-Qaeda, refugees and organized violence here ('Iraq and Al-Qaeda part of same picture, says Straw', *The Guardian*, 08.01.03). High-profile police actions are accompanied by rumours from intelligence services and mass-media speculation about terrorist threats.

These incidents should be understood as joint police-press operations (see also section 4). In the run-up to the US-UK military invasion of Iraq in early 2003, such operations were used to make us fear violent attacks here, thus fabricating a public emergency. For example, the government sent tanks to Heathrow airport, branded refugee circles as 'Al-Qaeda cells', spread fears about a cyanide attack in the London tube, and linked detainees with the poison ricin (5 January 2003). The press encouraged public fears about mass poisoning from ricin, even about a 'chemical weapons plant' (*Financial Times*, 08.01.03). When a detainee killed PC Stephen Oake in Manchester, the killer was alleged to be the 'ricin chemist' of the 'chemical factory' previously found in Wood Green (*Daily Mail*, 16.01.03). As another example of a groundless scare story, 'Al-Qaeda suspects had enough explosive to kill hundreds' (*Daily Mail*, 24.01.03). Later this story was recycled with claims that the ricin in London came from a factory in Iraq, thus justifying the military attack on that country.

Such malicious rumours about detainees have been spread by government sources and reproduced by the mass media -- even before any criminal trial (see Appendix IV). Ordinarily, such character assassination would be treated as contempt of court. Yet this practice has been tolerated and has become routine. Consequently, 'The legal procedures have been atrophied and are by now merely a charade of in-built protections which do not really exist', argues a solicitor for some defendants (Peirce, 2003).

Despite all the scares, there has been little correlation between 'anti-terrorist' arrests and prosecutions. As far as we know, no 'terrorist' prosecution case has presented evidence of plans for organised violence here.

Crimes of association

The UK's so-called 'anti-terrorism' legislation has a fundamentally political role by creating new crimes of association. The Terrorism Act 2000 broadened the definition of terrorism to encompass ordinary political activities (see section 3). Extended police powers are triggered by mere suspicion that someone may be associated with so-called 'terrorism' -- including conduct that does not otherwise constitute a criminal offence, or vague anticipation of future activities. Extra powers of detention and harassment can be exercised beyond any effective judicial scrutiny. People become subject to attacks on civil liberties, such as detention without adequate legal representation. Anyone can be held without charge for up to 7 days, and in some cases foreign nationals can be interned indefinitely. As the presumption of innocence is abandoned, inequality before the law is being entrenched.

Through a circular logic, the supposed need for 'anti-terrorist' special powers has been justified by using them to arrest people who could have been held instead under other ordinary criminal laws. These powers have been used mainly in relation to fraud, immigration status and political activities. Of all the people arrested under the legislation, few have been charged -- and those mainly under immigration law. Most could have been arrested under such law or under the ordinary criminal law, instead of 'anti-terrorist' powers (IRR, 2003). Some were charged with membership of a banned organisation but were not accused of any specific activity that would be otherwise illegal here.

'Anti-terrorism' powers have been used to stigmatise and terrorise ethnic minority communities, especially Muslims. The law has been used in arbitrary ways, for example:

Otherwise legal activities -- e.g. charitable donations, or cash payments -- are portrayed as sinister.

Foreign nationals (especially refugees) are asked to act as police informants about ordinary political activities, with threats of reprisal if they refuse. Conversely, they have been promised favours if they cooperate.

Special Branch officers have warned relatives and friends of detainees against any contact with their families.

(See below for more specific cases.)

Such actions have had the following effects:

Anticipating arbitrary police action, many Muslims keep telephone numbers of a solicitor, yet this is interpreted as suspicious by the bizarre logic of the police.

Refugees seeking a safe haven from persecution fear that the authorities here will treat them in ways similar to their own governments or will deport them back home

Police actions have intensified Muslims' feelings that they live in a state of siege, while encouraging popular prejudices against them.

Mere arrest has undermined people's reputations, livelihoods and freedom to travel. For example, although Lotfi Raissi was eventually released for lack of evidence, the 'terrorist' stigma has destroyed his life, and the overall 'war on terror' has made him distrust even those who try to help him. He regards any assistance from a Muslim charity as a dangerous stigma; likewise a charity initially feared any association with him (see Appendix II). As another example, after the police mistakenly identified a Kurdish detainee as a PKK leader, press reports led neighbours to ostracise his family (see Appendix III, case of Mehmet Karayilan).

A few dozen arrests, with just a few prosecutions, have effectively intimidated entire communities. Through an apparently random, open-ended series of arrests, 'The use of "anti-terrorist" powers has now paralysed and terrified significant parts of the Muslim community in this country', according to a solicitor who deals with the human consequences (Peirce, 2003).

Although Muslims overwhelmingly opposed the US-UK military attack on Iraq, many of them were deterred from attending anti-war meetings because they feared that informers would report them to the police and intelligence services, who would then harass them. Participation in anti-war activities could help to integrate Muslims into mainstream British

politics, yet most are excluded by fear of state persecution. (See Appendix II, section on public meetings).

The above political effects are not accidental; they have a political purpose, driven by government agendas (regardless of Parliament's intentions). In the run-up to the US-UK military invasion of Iraq, political support for the government was built through fear of terrorist attack, while anti-war protest was deterred by intimidating many people in ethnic minority communities. For similar reasons, few people are willing to provide testimony about their experiences, fearing that their names will be supplied to the police. Nevertheless the details and information contained in this submission give some insight about the discriminatory and anti-democratic effects of this legislation .

3. Broadening the definition of terrorism

The new legislative framework rests on the Terrorism Act 2000, which broadened the definition of 'terrorism'. Previously this term had meant organised violence intended to harm ordinary people. In the Act, 'terrorism' is now vaguely and broadly defined to include simply 'the threat' of 'serious damage to property', in ways 'designed to influence the government' for a 'political cause'. This broader definition encompasses and stigmatises a wide range of activities, far beyond any involvement with organised violence -- which would anyway be illegal under the criminal law. In this way, it creates new crimes of association -- e.g. with people, property or funds which may be used for 'terrorism'.

Under the same Act, organisations here can be banned on the basis that activities abroad fall within that broadly defined 'terrorism'-- regardless of the nature and practices of the foreign government against which it is a response. Its broad scope denies people the right to resist oppression, even to struggle against dictatorship. Under the legislation, 'terrorism' includes mere association -- e.g., simply to attend public events or to buy publications associated with a banned organisation. Any such activities can attract intimidation, arrest or even prosecution. Thus the law undermines fundamental rights of free speech and association.

The banning of organizations under the 2000 Act is used as a short-cut to establishing guilt of terrorism. Membership, association or links with a banned organisation -- e.g, putatively be linked to 'Al-Qaeda cell' -- is the basis for internment, thus bypassing the need for any actual evidence of individual activities involved in or supporting violence. On this basis, non-violent illegal activities have been portrayed as integral parts of terrorist networks, but without producing any evidence of plans for violent activities.

Such hypothetical links were attributed to three Algerians arrested in Leicester in September 2001 under the Terrorism Act 2000, section 17, relating to 'terrorist finance'. Their first trial was halted in January 2003 because the jury was so frightened by the mass-media scares and declined to proceed. Eventually a second trial convicted the accused of terrorist activities. Yet the main prosecution evidence of crime was fraud involving credit cards or travel documents. The defendants were also found to possess video films portraying Bin Laden, and this was used to link the fraud with terrorism -- without any evidence of the destination or alleged use to which the funds were being put, much less being linked to plans for violent activities.

The banned list also included foreign organisations which have roots in ethnic communities here. For example, the Kurdistan Workers Party (PKK), International Sikh Youth Federation (ISYF), Tamil Tigers, etc.

In that context, the bans have been used and have certainly been experienced as an attack on freedom of expression, to intimidate community networks, to criminalize activists and to turn people into police informants through implicit blackmail. Political activities come under

constant surveillance and harassment as suspected 'terrorism' (For example, see Fahim Ahmed's case in Appendix I). Bans on organisations have been experienced as an attack on entire communities -- e.g., Kurds, Sikhs, Tamils and North Africans. For example, in August 2002 two Indians were convicted and imprisoned for membership in the ISYF, the main organisation of Sikhs worldwide; they had been visiting the UK from Germany, where the ISYF is not illegal. Here are more detailed examples which illustrate the broader aims and effects of the bans.

'PKK' case

The political persecution of Kurds here is illustrated by a high-profile court case. Four Kurds were arrested at Dover in March 2002, detained at Belmarsh Prison, and were prosecuted for allegedly supporting the Kurdistan Workers Party (PKK). Evidence in court included photos of defendants holding placards listing several banned organizations. In reality, at a 2001 demonstration they had been among the 4000-plus protestors ridiculing the bans, e.g. by wearing T-shirts which said 'I am the PKK'.

When they were arrested at Dover, the defendants were carrying funds for a trans-European speaking tour to support a campaign for Kurdish rights. They were heading for Germany, where they planned to march with thousands of others to demand the introduction of optional Kurdish language courses in Turkey's schools. Yet the police treated their funds as suspicion of terrorist links.

At least one defendant was approached by Special Branch officers asking him to provide information on other political activists. They implied that such cooperation could help him to gain funds and refugee status. He refused the request and instead reported this incident to colleagues.

Fortunately the defendants obtained a jury trial. Defence witnesses were able to explain the context of Turkish state terror against the Kurds. The activist-comedian Mark Thomas gave evidence about attendance at the demonstration, which led the jury to laugh at the prosecution. The jury would not convict, so the judge dismissed the case in November 2002.

In such cases, Turkish government persecution of the Kurds is extended to this country. As another example, in March 2003 two Kurds from the Halkevi Centre were carrying funds to help set up businesses in cities around Britain. Detained in Preston, they were asked to prove that their funds were not for 'terrorist' purposes; the judge eventually dismissed the case. A foreign journalist, carrying a £6000 for his newspaper *Ozgur Politika*, was likewise detained. According to the chair of the Kurdish Federation in the UK,

The persecution of Kurds continues. Unfair detention of innocent people creates a pattern of fear, even in Britain. Nevertheless the struggle of the Kurdish people for justice will continue. It is the Terrorism Act 2000 that needs to be abandoned (Sait Akgul, June 2003 statement to CAMPACC).

Vatan case

The ban on organisations has been used to suppress freedom of speech and association. Distributors of the Turkish-language magazine *Vatan* have been harassed, and their magazines seized as 'terrorist property', since early 2002 -- even though the magazine was legally registered and pays taxes in Turkey. The distributors attempted to retrieve their property from the police through the courts, though without success. During 2002 they openly continued to distribute the magazine.

Seven people were arrested in December 2002, though one was released without charge. The remaining six were eventually charged with membership of a proscribed organisation, the

Revolutionary Peoples Liberation Party-Front (DHKP-C), under section 11(1) and (3) of the Terrorism Act 2000 and facilitating the retention or control by or behalf of another person of terrorist property, under Section 18(1) of the Terrorism Act 2000.

The powers of lengthy detention without charge are used and/or experienced as psychological torture. According to one person charged, he was initially locked up in an isolation cell with blindingly bright lights. The heavy bomb-proof outer door was opened noisily every hour for checks. He has described his experience as follows:

‘Are you sleeping? Are you OK?’, the officer shouted through the flap of the inner door -- every hour. If I did not answer, then the officer kept on shouting. I was completely disoriented and confused. It was psychological torture – done on purpose.

Such opportunities for abuse are inherent in the power to detain anyone for 7 days without charge, and will be doubled if the time-limit is extended to 14 days.

Moreover, the *Vatan* case has been used to terrorise and intimidate the Turkish community in northeast London. Special Branch officers have visited more than a hundred shopkeepers to identify those who have helped to sell the magazine or contributed funds to families of political prisoners in Turkey. Shopkeepers were asked whether the magazine distributors had threatened them -- and whether they would testify along these lines in court. If expressing reluctance, they were told: ‘Your job/shop/car is not as secure as you would like to think it is.’ (See Appendix IV)

4. Internment: fabricated emergency, unfair trial

The 11 September attacks in the USA were exploited politically to declare an open-ended ‘war on terror’. Such language was used in Britain to justify the ATCSA 2001. As its most draconian power, the ATCSA 2001 Part 4 authorised internment. Any foreign national can be detained for an indefinite period without charge or trial -- in cases where the person has suspected ‘links’ with an international terrorist group but cannot be safely deported to their own country. Internment can be ordered simply on the basis of belief and suspicion by the Home Secretary, based upon ‘closed’ or ‘sensitive’ material that could not be used as admissible evidence and tested in a criminal trial .

On those vague grounds, several foreign nationals have been interned since December 2001. In many cases, they were taken straight to high-security prisons without being questioned or interviewed, and with no idea of the basis of the allegations laid against them, according to their solicitor (Garcia, 2002). The government claims to have evidence which cannot be presented in open court -- and thus can never be tested by a proper judicial procedure. In such ways, internees are denied elementary rights.

The government has disclosed no real evidence of an imminent threat to this country, nor announced any plans for prosecution of the internees. Indeed, the UK authorities have not acted as if they believe that the internees threaten anyone’s life, much less the life of the nation. Internees have been given a document accusing them of involvement with Islamic extremist groups, yet they have not been asked any questions for a criminal investigation. Such questioning could yield useful information or at least deter any plans for violent activities -- but that is not the main purpose of their detention.

Internment amounts to imprisonment without trial -- unjust, undemocratic and dangerous for everyone’s civil liberties. Clearly this violates the right of habeas corpus, as guaranteed by the common law and by the European Convention on Human Rights (ECHR). To justify derogation from the ECHR, the government claimed that Britain faced a public emergency threatening the life of the country. Yet the government acknowledged that it had ‘no immediate intelligence pointing to a specific threat to the UK’. The UK derogation is unique

among EU member states. The supposed threat comes from international terrorism, yet somehow it is only the UK that has a 'public emergency'.

In reality, the emergency has been fabricated -- partly by the law itself, and partly through scare stories spread by the intelligence services. According to Martin Bright (see Appendix V), each newspaper has a designated person to receive information from MI5 about supposed terrorist threats. Such information has been inconsistent, as regards whether the UK faces simply a general threat sometime in the future or an imminent risk to our safety. And governments of other countries have motives to target their own dissidents, e.g. by associating them with terrorism. Nevertheless journalists often publish MI5 claims about 'terrorists' living here, and then their articles are treated as evidence of a terrorist threat. This circular logic helps to fabricate a 'public emergency'.

In trying to justify internment powers as essential, the UK government presents a false dilemma about how to deal with 'suspected international terrorists' who cannot safely be returned to their own country. In reality, internment is an extreme case of a more general tendency: to use immigration law for detaining, stigmatising and terrorising foreign nationals accused of no crime. In this regard, we agree with the argument of two previous submissions: that internment powers have been sought and used simply because the ECHR Article 3 prevents the UK from deporting people in unsafe circumstances (Pannick, 2002, p.5; and Liberty, 2002, p5).

As a weak compensation for the injustice of internment, the government has cited the existence of the Special Immigration Appeals Commission (SIAC), a quasi-judicial body which assesses the use of such powers. Even a prominent supporter of 'anti-terrorist' legislation acknowledges that the judiciary must have a greater role, 'to alleviate the human rights dangers of the use of this new law' (Wilkinson, 2002). In that vein, SIAC is supposed to implement the ECHR through the UK Human Rights Acts and a Parliamentary body has claimed that this 'provides a sufficient safeguard' for people interned (JCHR, 2002).

However, SIAC is an entirely inadequate substitute for a criminal trial. It judges only whether the Home Secretary has reasonable grounds to suspect that the person is linked to 'international terrorism'. It provides no safeguards of a criminal trial, no presumption of innocence, no requirement that the state prove its case beyond reasonable doubt, no rules of evidence and no effective opportunity to test the case against them much of the material being heard in closed session with representation by a barrister who is unable to take instructions from the internee and investigate the assessments made by MI5. If Lotfi Raissi had been interned under the ATCSA 2001, rather than prosecuted it is likely that he would still be in Belmarsh detained and accused of being an international terrorist (see Appendix II).

As other submissions have argued, SIAC 'is inadequate in its safeguards for the accused in the context of what is at stake -- a potential lifetime of incarceration' (Liberty, 2002, p2). ATCSA has created a 'shadow criminal justice system' lacking 'crucial components and safeguards present in both the ordinary criminal justice system and national procedures for the determination of refugee status (AI, 2002, p.4). Moreover, internment powers 'have served to increase a sense of siege and may even have provided encouragement to racist elements in our society' (Liberty, 2002, p4).

Indeed, such racist elements include the British state. Internment powers have been used to intimidate Muslim communities, thus contributing to their sense of persecution. Special Branch officers have warned relatives and friends of the internees: 'Have no contact with their families -- or else you may be next.' Such threats have spread fears that anyone could be next for internment.

For all those reasons, we oppose internment powers as illegitimate; they should be abolished and meanwhile should not be used. We support a call from a previous submission:

That the internment powers of the ATCSA should be immediately repealed; and

That everyone detained under the ATCSA should be released unless charged with a recognisably criminal offence (Amnesty International, 2002, p.22).

We do not propose alternative means to deal with the false dilemma claimed by the government; the ordinary criminal law is adequate to deal with any real threat to the public.

5. Other powers under ATCSA

Stop and search

Section 94 extends powers of stop and search, far beyond contexts related to 'terrorism'. Such powers have targeted those in Muslim communities involved in protest and demonstration; see previous submissions (Liberty, 2002; FAIR, 2003.) In Hackney approx. 2/3 of all those subjected to stop-and-search come from ethnic minority communities; such powers provide yet another means to harass the community systematically (see Appendix III, Yashar Ismailoglu).

'Terrorist property' and freezing orders

Economic resources of communities are also threatened. The ATCSA 2001 empowers the authorities to seize property or cash, and to freeze bank accounts, in cases of suspected 'terrorist' purposes. These powers have been used to investigate charities of ethnic minorities. Some bank accounts have been frozen.

Regardless of whether any wrongdoing is eventually found, such a severe action damages reputations and destroys trust among communities.

Muslim international humanitarian relief agencies and charities have been adversely affected through the discriminatory and disproportionate application of freezing orders. Although most Muslim charities that have been investigated by the Charity Commission due to their possible links with terrorism have been exonerated, they have suffered heavily. The psychological impact of apply freezing orders has meant a haemorrhaging of donations for Muslim charities as a result of the stigma of being affiliated with terrorism (FAIR, 2003, p.10).

Moreover, police investigations may misinterpret and effectively punish cash transactions, beyond any judicial procedure. Ethnic minority communities fear that their cultural custom of cash transactions may be treated as suspicion of terrorist links. 'Muslim and other minority communities in Britain tend to conduct their religious, business, charitable and other transactions largely in cash' (FAIR, 2003). This is specially the case for Muslims, many of whom have distrusted banks since the BCCI disaster; some also oppose usury.

The Turkish-Kurdish community feels that its activities have been put under suspicion by 'anti-terror' measures. According to a community worker, 'terrorism becomes an excuse or a tool for controlling society and limiting civil rights.' Under the ATCSA 2001 the authorities extend their control and surveillance on signatories of charities' bank accounts. Suspicion is also cast upon any fund-raising, yet this is 'a part of communalism, of working together', e.g. to assist common projects or earthquake victims. State surveillance and investigation drives such activities underground, making them less accountable to communities (see Appendix III, Yashar Ismailoglu).

Disclosure of information

Section 17 (2) of ATCSA 2001 allows public authorities to disclose information for the purpose of any criminal investigation anywhere, or even to judge whether one should be

initiated. Such powers are unnecessary to prevent serious crimes, yet open up great scope for abuse, as previous submissions have argued (Liberty, 2002; Muslim submission, 2002; FAIR, 2003). Moreover, for a long time the UK authorities have exchanged information on political activists with the countries from which they have come, so these new powers increase fears that such practices will become routine.

6. Political agendas behind the legislation

Protecting people from violence does not drive or explain the 'anti-terrorist' legislation. As a previous submission argued, 'Where crimes are planned, attempted or committed, then the mechanisms for arrest are already firmly in place' -- i.e., under the ordinary criminal law (Gearty, 2002).

What, then, explains the legislation? Evidence gathered in this document points to anti-democratic, and discriminatory purposes and effects. For example:

- the intimidation of minority communities, especially refugees, against taking part in political activities -- and to isolate such communities.

- attacking communal and friendship networks, especially in Muslim communities.

- detering support here for internal resistance against oppressive regimes abroad from which refugees have fled.

- protecting foreign regimes which are supported by the UK government.

- giving governments unlimited access to information on political activities.

- granting extra powers to deal with immigration, while portraying refugees as dangerous.

- justifying extensive resources for the security services, in a period when the conflict in Ireland no longer provides a credible threat to the public.

7. Conclusions: repeal the legislation, oppose its powers

Overall the 'anti-terrorist' legislation is an attack on democracy and especially on ethnic minority communities. Its wording and use has blurred crucial distinctions -- between political activity, communal networks, immigration issues and organised violence. Such blurring has broadened and trivialised the term 'terrorism', such that it becomes meaningless to ask whether the special powers are necessary to prevent 'terrorism'.

Certainly these special powers are not necessary to protect the public from violence. Indeed, there is little sign that such powers have been used to investigate (much less found) evidence of organised violence in this country. In any case, the ordinary criminal law would be adequate to deal with any such threats. As a leading solicitor has argued, 'The arrests are intended to terrify entire communities. Those arrested are arbitrarily labelled as outlaws' (Peirce, 2003).

For the reasons documented here, the entire UK framework of 'anti-terrorist' legislation is illegitimate, undemocratic and discriminatory in its terms and effect. It should be repealed. Meanwhile, its powers and its use should be opposed by anyone who believes in civil liberties. In particular, internment powers of the ATCSA should be immediately repealed; and everyone detained under the ATCSA should be released unless charged with a recognisably criminal offence.

References

Note: As cited below, previous submissions to the Privy Council review can be found at <http://www.atcsact-review.org.uk/evidence.htm>

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Appendix I: Fahim Ahmed's case

Statement from Fahim Ahmed, 23 year old criminal lawyer and West London political activist

On 19 December 2001 I was 'detained' by Special Branch under the new legislation for the purpose of 'examination', arrested, held for 17 hours, interrogated and assaulted through repeated forcible attempts at taking my fingerprints. Eventually I was released on bail, to return on 18 February to find out if I will be charged with any offences. The cuff-marks remain on my wrist and the psychological marks remain on my mind as I write this report one month after the actual event.

I had been in Belgium attending a massive trade union demonstration against the EU on 13 December, and the latest big anti-capitalist demonstration on 14 December, both in Brussels. I returned on the Eurostar on 19 December and was checked by French customs on the train before it went into the tunnel. There were dark-suited British officers checking people on the train once it was officially in the UK, and I assumed that they were customs as well. An officer approached me, showed me a Metropolitan Police badge and asked to see my passport. I asked him what he was doing and he explained that he was a member of Special Branch and was doing routine anti-terrorism checks. I showed him my passport and he continued on his way. I thought nothing more of it, but when I got off the train at Waterloo at 4.30pm, the same officer was waiting for me before the arrivals area.

He approached me and said: "Mr Ahmed I'm detaining you under the Terrorism Act, come with me." I could hardly believe it! I had thought about what a fuss I would make if I ever found myself in trouble with the police, but I never imagined I would be targeted as a 'terrorist'. I asked the officer his name and he told me: "DS Geoffrey Singleton." I wrote it down immediately and followed him into a room there in Waterloo station. He sat me down and immediately began asking me questions about who I was, where I had been, where I was going and what I was doing. I began answering his questions thinking I was being interviewed under the Police and Criminal Evidence Act 1984 (PACE), which guarantees criminal detainees rights to legal advice, silence, and a standard of treatment specified in the Codes of Practice. Little did I know I was actually being 'examined' under Schedule 7 of the Terrorism Act 2000 (TA).

After a few general questions he began asking me about my support for the Intifada - he knew I was a supporter from the badge I was wearing. I explained that I had been active in the Oxford Palestine Solidarity Campaign, having meetings and handing out leaflets. Unsatisfied, he asked the question again, at which alarm bells started ringing.

I asked him to clarify what exactly he wanted to know and he repeated the question again, at which point I said: "I'm not answering any more questions, no comment." He asked me where I live and I repeated: "No comment." He then asked for my passport, which he had already seen on the train. I handed it over and told him that the address on the passport was my address, knowing that refusal to supply an address gives rise to a general power of arrest. I then asked if I had the right to legal advice, I was told that I had none. DS Singleton looked at me scornfully and left the room.

Another officer came in and began searching my large rucksack. He also searched my jacket. He then asked me to stand up so that he could body search me. I was alarmed and asked him why he wanted to do that. He told me not to worry and that he was only going to pad me down. It was my turn to repeat the question, so I again asked him why and what he was looking for. He looked confused, as though no one had ever objected to being frisked, and said that he had

the power to search me and that I was just making things difficult. I explained that I was not minded to being physically searched by police officers because I found it undignified and degrading, and that I would gladly turn out my pockets. He persisted, so I asked him to explain his reason for wanting to search me and he stated that I might have something on me that could be used to injure himself or another officer!

I told the officer that I had got off the Eurostar expecting to go straight home, that I had no idea that I would be sitting in that room, and that I certainly had no intention to do him any harm. I stated further that I would be prepared to listen to any 'reasonable suspicion' he had formed as to whether I had anything dangerous on me, and that if it was genuine I would reconsider.

After an hour I was handed a 'Notice of Detention' outlining the specific legislation under which I was being held. It stated that I had the right to have someone informed of my detention and to consult a solicitor! I studied the notice and added it to the papers I had compiled detailing the events so far, the names of officers who had given them and the warrant numbers of those that refused to tell me their names. Next I asked to use the toilet but was refused on the grounds that I might dispose of something or produce a weapon! 25 minutes later I was allowed to use the loo with supervision, after which I requested my rights.

After I made my first phone call I was told that I was being arrested for failing to provide address details. I immediately pointed out that the officers had my passport, which had my address on it, and that I had told them so when I handed it over. Two minutes later I was told that I was to be arrested for refusing to submit to a body search! It was obvious that they were looking for an excuse to arrest me.

I waited another 45 minutes for uniformed officers to turn up, handcuff me, walk me through Waterloo station like a criminal, and take me in a squad car no more than 200 metres down the road to Kennington Road copshop. I was booked into custody and I explained to the custody sergeant the false pretences on which I had been arrested, but he had already authorised my detention. I requested my custody record so that I may note my objections on it. He refused, saying that the record was for him, at which I asked for writing materials to which I was entitled. He then had me searched, which I allowed knowing that he had a "legitimate" reason (my safety) as distinct from the original search situation where there was none.

I was allowed to speak to a solicitor and then I was put into a cell to wait for my legal advice. Two hours went by and eventually I was let out of the cell to speak to my brief, who turned out to be an Irishman named Adams! He was not the guy I had spoken to on the phone and admitted to knowing nothing about the terrorism legislation under which I was being held.

We were told that I would not be 'interviewed' under PACE; rather I would be 'examined' under Schedule 7 of the TA. I had no right to silence, and in fact I was under a duty to provide the examining officer any information he requested! Further, if I failed to comply with this duty I would be committing an offence for which I could be imprisoned for up to three months, and/or receive a fine of up to £2,500!

Following legal advice I decided that I would have to answer questions to avoid the possibility of an unnecessary conviction for a terrorist offence. I was worried about the prospect of a police interview without the right to silence, since I knew that the only way for the police to get evidence where there is none is through the mouth of the 'suspect'.

Anyway, we went into an interview room, where tapes were put in the machine and the examination was begun. I was asked very vague, open questions, mainly in relation to visits to Libya and Algeria. I explained to the officers that I had been attending youth conferences and festivals officially hosted by the governments of those countries. Then they asked me why I had

been to Pakistan, and I told them that I, like many other second-generation immigrants in the UK, had family there, and that I had been visiting Pakistan since childhood. I had to work hard to get the examining officer to narrow down his questions, because I was used to police officers asking detainees about their involvement in specific offences, whereas this 'examination' seemed to be an intelligence gathering exercise at my expense. Eventually the questions were exhausted and the tape buzzer sounded before I had a chance to add my own comments to the tape.

It was now 1am. I was fatigued from travelling and being locked up, and I expected that a decision would be made and I would be released. I had no idea how I would get back to West London from Waterloo, as I was now in serious danger of missing the last tube. However, this was of no interest to the police. What Special Branch were concerned with was fingerprints.

I was told that I would be fingerprinted, but my solicitor discovered that they wanted three sets of extremely detailed fingerprints. I noticed that a female in casual clothes was actually a fingerprint specialist present simply to ensure the extraction of quality prints from me. I knew that the procedure required my written consent, and I also knew that consent could not be withdrawn once it had been given. More importantly though, they wanted my fingerprints before even charging me with any offence. I hadn't done anything wrong; they were not even alleging that I had done anything wrong, yet they wanted my prints for no apparent reason. Finally, they wanted to then keep those prints *forever*.

I refused to consent to giving my fingerprints, and the police used all sorts of tactics over the course of the next four hours to get me to change my mind and submit to their will. At 3.30am there was a knock on the cell door and I was pleased to see an Inspector. I thought she would be releasing me, but she took me back to the fingerprint area where eight large male officers were standing waiting for me. This time they really put the pressure on and soon I was screaming in pain. At one point I allowed myself to lean completely on an officer as I expected my knees to give way. They applied so much pressure on my fingers and arm that the pain, coupled with that of the cuffs on my wrist, meant I could hardly stand. I'm not sure exactly how long this went on, but the jailer stopped the proceedings partly out of frustration and partly because the cuts on my wrist were becoming too obvious.

At 5am I was taken to the medical room to see the police doctor who listened sympathetically, but was unable to do anything other than make a thorough note of my injuries. I was then told by the Inspector that in the morning the Territorial Support Group (TSG) would arrive, that they were a special anti-terrorist force, and that they had methods of forcing prints from non-compliant prisoners, and that if my fingers or wrist were broken it would be my own fault.

I could hardly believe that an Inspector was threatening me with broken bones. I retorted that broken bones would constitute unreasonable force and that I would sue her personally as well as the Met in general. In any case, I was put back in a cell and slept from 5.30-8.30am when I was woken with breakfast.

Just before 9am I requested the jailer to let me speak with a Superintendent, an Inspector, a solicitor from Birnbergs, a solicitor from Bindmans, and my old boss at Darbys in Oxford. I was allowed to see the latter at 9.40am. Then I was informed that I was to be bailed to return at a later date. Shortly after 10am I was out of the station and walking along the bank of the river Thames on a cold Thursday morning in December, a week before Christmas.

A couple of days prior to the re-bail date I called the case officer who told me that I was to be released from bail with no further action because it was not in the interests of justice to proceed. I thanked him.

I have since instructed solicitors to act on my behalf against the Metropolitan Police, and the latter have offered me £1,750 out-of-court in full and final settlement of the matter, although they continue to deny any liability and maintain that I was treated with 'dignity' and 'respect' throughout, and that had I not been so 'obstructive' that none of this would ever have happened.

Extract from original statement by Fahim Ahmed. Original available from campacc:
estella24@tiscali.co.uk

Appendix II: Muslim Community: intimidation, harassment and criminalisation

By Dr Ghayasuddin Siddiqui, Leader, The Muslim Parliament of Great Britain

I am a community activist who leads a community forum, The Muslim Parliament. I meet members of the Muslim community from all walks of life. Here are some of my experiences of the way 'anti-terrorism' legislation has affected this community.

Public meetings

In March 2003 I attended a meeting of Muslim clerics and community leaders in Birmingham. During the meeting I expressed concern over how few Muslims were participating in anti-war meetings taking place up and down the country: 'I see everybody there except Muslims, though they have more reason than others to be present'. The response was startling. I was told: Muslims do not attend these meetings because they fear that informers would take down their details and photograph them and thereafter the police and intelligence services would harass them.

This struck me as particularly sad because I have always felt that Muslim participation in anti-war demos to be a positive step towards our integration and becoming part of mainstream British politics.

Lotfi Raissi case

Lotfi Raissi, 27, is a French Algerian pilot living just outside Slough, Berkshire. Ten days after the events surrounding 11 September 2001, he was arrested on a US warrant for allegedly training four hijackers. He remained in Belmarsh high-security prison for five months, locked up for 23 hours per day in his cell, without any glimpse of the sunlight. Since everybody in the prison had seen him on TV, both prisoners and prison officers alike treated him as 'a fucking terrorist', as Lotfi would tell me later. He was not allowed to see his wife or lawyer for first six weeks.

He was released in February 2002 because the US government could not convince the British judge that they had a credible case against him. All the 'evidence' against Lotfi was based on hearsay. He was eventually released because his solicitors had access to a procedure to challenge the US charges and prove them wrong. If instead he were one of the internees held under the ATCSA 2001, he would still be in Belmarsh -- or could even be extradited to the USA.

Whilst he was in prison, his wife lost her job and was also forced to vacate the flat where they were living in because the landlord would not rent his home to 'terrorists'. Sixteen months after his release, Lotfi is still unemployed and on the dole. His local community, even the butcher and the grocer, avoid him because he was arrested for 'terrorism'.

After his release, I went to see him a couple of times at his brother's house. Amongst other things, he told me that being unemployed he is having to borrow a lot of money from his brother and other friends. At that time he was not even in receipt of unemployment benefit. I was touched by his circumstances and sought to raise funds for him to alleviate his condition.

I contacted two Muslim charities about him. At one Arab charity, though the person I was speaking to had known me for decades, was stunned when I mentioned his name and asked me to change the subject. He said, "Do you want our charity to be investigated for helping a 'terrorist'?" The other charity, concerned for his well-being, agreed to give me a cheque for

him on condition that I get an application for help from him and also an acknowledgement of the amount received. A few days later I went to see him and offered him the cheque. Seeing that the cheque had been issued by a Muslim charity, he became hysterical. 'Now the intelligence services would have the evidence that I was after all connected with Islamic terrorism', he said. He remained agitated until I tore the cheque into pieces in front of him. Since then he has suspected me of working for an intelligence service and has avoided meeting me.

In my last meeting with him, I offered to arrange meetings with his local MP, social services and his GP to try to secure some help for him. To begin with, a meeting with his MP was arranged. But an hour before the meeting was due, he left a message on my mobile phone to say he wouldn't be able to join me because of some emergency. I went to see his MP alone. Later when I telephoned him to brief him about my meeting, he thanked me for this meeting and asked me not to bother with other appointments.

Appendix III: UK persecution of Kurds

Mehmet Karayilan, a defendant in the 'PKK' trial

Interviewed by Martina Anzinger on 2 May 2003

His words were translated by a member of the Halkevi Centre, Hackney

I was arrested in Dover, supposedly for fund-raising for the PKK. The others went by bus or by car. They too were stopped in Dover. I was in prison for nine months awaiting trial.

There are several persons in the PKK leadership. The police said that I was one of them. His surname is the same as mine. But his first name is Murat and mine is Mehmet.

The police realized that I was not the PKK leader. But they still arrested us and wanted to get some result from the Terrorism Act. That is why they tried to find evidence against us.

They came (to my house) the day after the arrests. For nine hours, from 3pm to midnight, they searched my house. They took away videotapes, newspapers, magazines, etc. Also they took a Turkish newspaper reporting about the situation of Kurdistan. They even took away magazines published in the 1990s. Those publications are legal in Turkey. They took all those papers and magazines, trying to use them as evidence of terrorism.

My family was emotionally depressed. The local newspaper was also publishing articles about my arrest. So the neighbourhood knew that I was arrested under the Terrorism Act 2000. My family does not speak English. The neighbours, because they heard about his arrest, labelled us a terrorist family, treated my family badly. The police came to the neighbours and asked questions. There were lots of problems because of the articles published in the local papers and in the Turkish papers as well. A lot of family members in Turkey were also visited by the police.

The British press did not mention the confusion of the two names. But in the Turkey the press made a correction: 'Look, the guy arrested is not this guy!'

While awaiting our trial, the conditions in Belmarsh Prison were very hard. We had only two hours per day out-of-cell time. But there is no compensation for me.

Yashar Ismailoglu, community worker at the Halkevi Centre, Hackney

Interviewed by Martina Anzinger on 2 May 2003

Halkevi has run a pilot project to monitor the use of stop-and-search powers. When you look at the recent statistics for stop-and-search, you will see that 68% of those stopped and searched are people from ethnic minority communities. That shows you something! As soon as they see a Kurdish person, they do not need to say that you have done something wrong. In the old days, police had to say that you have done something wrong; this is why they stopped you. But now, with stop-and-search, you do not need to do anything wrong. If the police do not like your face or get the suspicious that you look Muslim or Arab, then they will stop and search you. So that is another method of harassing the community continuously.

I give you another example. I also coordinate the activities of the Cypriot Community Centre, which involves mainly elderly people. Recently, the management committee changed. Therefore, they needed to change the organisational signatures for the bank account. And the bank said to me that they got specific instructions from the Home Office: any organisation that

wants to open an account or authorise signatures must prove their residence; they must go personally to see the bank director and show their passport. This rule was introduced after 11 September 2001.

Thus the state now controls the accounts of charity organisations and of individuals. What right do you have to know how much money I have in my bank account? But now the police have the authority, without going to court to get a warrant to get into my account. The ATCSA gives them the utmost access to the privacy of individuals or a company. So terrorism becomes an excuse or a tool for controlling society and limiting civil rights.

Collecting money in Turkish society is a part of communalism, of working together. Helping an organisation is the same. Now Halkevi is organising fund-raising for the victims of the earthquake in Turkey. But the 'anti-terror' law may criminalize that.

The Act (ATCSA 2001) has not stopped organisations from collecting money because that is still a need. Whatever people need, now it will be done underground. And you can't control it. Oppressive rules and oppressive regimes are doomed to failure. You have to be an open society. I give you an example. If fund-raising is left free and put under democratic control, then you know which organisation is collecting how much and where the money goes. Now you don't know. You are pushing the society and political activists to go underground. Those who do fund-raising have changed their tactics, their methods of collecting. The UK is returning to the Middle Ages very fast. The problem is: you have to go to the source and try to solve the problem at the source.

Appendix IV: *Vatan* case

On 11th December 2002 police from Scotland Yard's SO13 anti-terrorist squad carried out a series of dawn raids at several residential addresses throughout the country. The raids resulted in the arrests of seven people, six from Turkey and one from Britain. They were then taken to the high-security Paddington Green police station, where they were interrogated for a whole week. The reason given by the police for carrying out the operation, officially named Coxswain, was that the police were carrying out an operation so as to gather information, with the view to make prosecutions, into the activities of a Left organisation from Turkey called the DHKP-C (Revolutionary People's Liberation Party-Front), which was proscribed by the British state in March 2001.

But to date this investigation has instead focused upon activities that are entirely legal and legitimate within Turkey and Europe. Supporting the struggle for democracy in Turkey, and highlighting the human rights abuses in Turkey within this country, have become criminalised under anti-democratic draconian legislation. Under the Terrorism Act 2000, criticism of Turkey -- a NATO ally and IMF-dependent state -- is no longer permissible. The nature and conduct of the police investigation has also become questionable. The police have attempted to coerce over a hundred people from the Turkish community into becoming either informants or prosecution witnesses.

The arrests happened in a climate when the 'war on terror' was at its most hysterical. Many people, mainly North Africans, were being detained in high-profile arrest operations that were taking place on an almost weekly basis. Fed by the government, the media claimed that the arrests taking place throughout the country were intelligence-led. If the truth were known, however, the arrests were taking place to help manufacture hysteria. The real victims were those who found themselves hauled before the courts for the country to see. The real villain was the Terrorism Act 2000.

The operation against the community from Turkey was flawed from the outset. Excessive force was used to gain entry to the arrestees' residences. The police strip-searched other people who happened to be at the same addresses and seized personal items (including funds) that still have not been returned. When the police went to one address, they were not aware that the woman they were looking for had recently married. When they were searching the woman's house they came across her husband's correspondence from the Home Office granting him asylum on the grounds that he had been persecuted in Turkey because of his political beliefs. The police treated this correspondence as adequate grounds to suspect him of being involved with terrorism and duly arrested him. Although he was later released without charge, the remaining six were charged with membership of a proscribed organisation and raising funds for a proscribed organisation, which carries a maximum ten-year sentence.

This operation followed years of harassment which even predated the Terrorism Act 2000. The charge of fund-raising centres around the import and distribution of an entirely legal magazine, called *Vatan* (Homeland), printed and published in Turkey and Germany. This publication was being brought into this country on a weekly basis through the port of Dover on the car ferry from France. Those who were doing this weekly collection run were subjected to arbitrary checks and searches from the Special Branch at the port of Dover. Sometimes they would be detained for several hours, half a day and even several days on a few occasions; but charges were not brought against them. The nature of the material that they were bringing into the country and the manner of the collection never changed, yet the police insisted upon questioning them every time.

The nature of the questions quickly changed to matters unrelated to either the magazine or those that were bringing it into the country. These stops were being used as an opportunity to build profiles on people and to pressurise them into ceasing this entirely legal activity. The questions would often come back to the same themes, "What do you think about the Taliban?" "Will you support the British army in Afghanistan?" "Are you a traitor?" "Do you think the IRA will decommission?" "What do you think about that bus bomb in Tel Aviv last week?" "What books have you read lately?" "Why do you keep coming here every week?" "You think you are clever, we are starting to get annoyed with you."

On one occasion in January 2002 two issues of the magazine were seized -- five hundred copies each -- but again no charges were brought against anyone. Even though the magazine was seized on that one occasion, the same people continued to bring the magazine into the country the same way every week. In an attempt to clear up this obvious contradiction and to get back what had been taken, a legal process was started against the police. The police seemed surprised and initially refused to cooperate with the process. They believed that they could take whatever took their fancy, without giving a necessary explanation; this is the ideology of bandits. Once they started to cooperate, albeit reluctantly, some information came to light. When they had seized the magazines this was part of an operation called Excavate.

Unfortunately and unfairly, the judicial review failed, as the police were allowed to hide behind their argument that certain individuals were being subjected to an ongoing investigation linked to these entirely legal magazines. They named one of these individuals in a document that they submitted to the court, by saying that they intended to arrest this person at some point in the future, as they believed that they had committed five different offences under the Terrorism Act. When that person tried to contact those officers through their lawyer, to ask them why they had made no attempt to discuss these claims with them, the police ignored the request. Operation Coxswain followed several months later.

When we oppose the Terrorism Act, our objections are not just based on abstract concerns. We are opposed to the Terrorism Act in its execution at every stage, from the arrest operations, the periods in detention and the charges that are eventually brought against people. The arrest and detention period is part of a conveyor-belt process that hopes to deliver the defendant to the courts already guilty; the role of the media is essential in this process. In the case of operation Coxswain, the arrestees had articles written about them in daily newspapers saying things that weren't even put to them during the police interrogations. They were kept for a whole week in isolation cells, with white walls and strip lighting that was constantly on. They were checked on every hour -- but not out of humanitarian concerns; if they were sleeping, then the police officers would loudly knock on the door and shout through the flap. We must call this torture. It may not leave marks on the skin but it is still torture. In protest against these conditions and against the operation in general, the arrestees went on hunger strike for the duration of their detention.

After a week in detention the arrestees were charged. They were successful in their bail applications and have been out on bail since then, although with stringent conditions. Two of the bail conditions are that the defendants are not allowed to possess, distribute or assist in the distribution of two entirely legal magazines -- *Vatan* (Homeland) and *Ekmek ve Adalet* (Bread and Justice). Yet these two magazines are registered with the state in Turkey and have to pay to taxes there.

After the arrestees were released the police started an orchestrated campaign against the community from Turkey. They visited over one hundred people, asking them whether those that had been charged had ever demanded money from them. In some cases those that were approached by the police had never heard of the defendants, yet still they were asked to make

statements against them in court. When no one was prepared to cooperate with the police, they then threatened people with the loss of their homes and businesses.

After seven months the case has progressed extremely slowly. The case has been adjourned on several occasions, as the police claim they need more time to prepare the case. They have only recently made it public that they are now working with the Turkish, German, Belgian, Dutch and Bulgarian authorities regarding this case.

Appendix V: Imprisonment without trial: terror, security and the media

By Martin Bright, Home Affairs editor, *Observer* newspaper
Evidence to the Special Immigration Appeals Commission (SIAC) hearing, 21 July 2002
Called as an expert witness by Tyndall Woods Solicitors, who are acting for two of the detainees.

Introduction

I have taken a close interest in Islamist community in Britain for several years in my professional capacity as Home Affairs Editor of the *Observer*. I have also studied the rise of political Islam in north Africa as a graduate student at the School of Oriental Studies at London University. By Islamist, I mean individuals who believe that political action should be guided by the Muslim faith and who are often in opposition to the regimes of their home countries. Islamism is an extremely diverse movement in which I would include militant extremists such as Osama bin Laden's al-Qaeda organisation as well as groups and individuals who wish for peaceful, democratic reform and would condemn terrorism in all its forms. There are Islamist opposition groups in all parts of the Arab and Muslim world, many of which are persecuted by the ruling government. Many Islamists therefore flee to Western countries as refugees.

Precisely because of this diversity and a general ignorance about Islam in the West, it has been all too easy for the police and security services to lump together genuine political dissidents and, in some cases, merely ordinary Muslims with individuals most people would regard as terrorists. Since the events of September 11, this confusion has increased as Western security agencies have become more dependent on intelligence from countries within the Arab and wider Muslim world, who have used the occasion to target dissident members of their domestic Islamist movements who have found refuge in the West.

I would not claim any special expertise in Islamic theology or modern political movements in the Islamic world, although, as a student of Islamic history, I probably have a greater knowledge than most reporters who write on the subject. I have also interviewed most of the high-profile Islamists based in Britain. I conducted a lengthy interview with Saudi dissident Khalid al-Fawwaz shortly before he was arrested in 1998 in connection with the African embassy bombings. I was the first British journalist to interview Abu Qatada, the Palestinian/Jordanian scholar who has been linked to several terrorist suspects across Europe since September 11. And I was the first British journalist to interview Abu Hamza, the controversial imam at Finsbury Park mosque in north London.

I have also written several articles opposing the new terrorist legislation introduced by the Labour government. I believe that terrorism is a crime that should be punished severely by the courts, but I do not believe that people should be persecuted for their beliefs especially when, as is the case with many Islamists, they are beliefs that are little understood.

General comments on the material

The material I have seen falls into three main categories: a small number of government documents including one Security Service document; court documents from the trials of various suspected terrorists and press cuttings about Islamist terrorism. By far the largest proportion of documents fall into the third category and I shall concentrate most of my comments on these.

The press cuttings taken as a whole are intended to suggest the following:

1. That there is a serious threat to international security from Islamic extremists
2. That Osama bin Laden and his al-Qaeda movement is at the centre of a loosely allied international Islamic terror network
3. That Egyptian Islamic Jihad has effectively merged with al-Qaeda
4. That there is a 'British connection' to this network
5. That there is a threat to Britain that justifies the imposition of a state of emergency

It strikes me as odd that press cuttings should be used in this way as evidence. As someone who has worked on this subject for several years, I know from long experience how difficult it is to discover real hard facts about the nature of the Islamist threat. Information usually comes from one of three sources, each of which is compromised in its own way. The first source is the Islamist dissidents themselves, who would not describe themselves as terrorists even if they are committed to the violent overthrow of certain regimes. The second is the regimes these dissidents oppose and which believe them to be terrorists. Many of the individuals concerned in these cuttings are refugees in this country and have been allowed to stay precisely because the evidence provided by their home countries has not stood up to scrutiny. The third is the British intelligence services and the police, whose off-the-record briefings form the basis of many of the cuttings contained here.

Much of the information contained in the press cuttings is almost absurdly circular. Information from intelligence briefings from foreign or the domestic services becomes common currency and is then repeated by journalists who are starved of any real information. Reputable journalists report the denials of the Islamists themselves, but the fact that someone denies being a terrorist is never considered to be much of a story. As increasing numbers of dissidents have been rounded up in Britain and elsewhere, it has become increasingly difficult for journalists to check their stories properly by talking to people who really know about the world of extreme Islamic politics. We have therefore been thrown back on an increasingly narrow set of sources: essentially the police and the intelligence services.

Another difficulty in assessing this material is that I have no way of knowing what status the Security Service gives to the information contained in the articles. Does the fact that they have been presented to the court mean that they believe every word contained in them is true? Or do they simply believe that any smear against an Islamist is a useful smear? I shall proceed on the basis that the information contained in the articles is taken seriously by the intelligence services and is thought to be largely accurate. I shall also proceed on the basis that any comments from 'Whitehall sources' have been accurately reproduced.

The selection itself is revealing. Taken as a whole, there appear to be two themes that emerge. Firstly, that Britain faces an Islamic terrorist threat that justifies the introduction of a state of emergency; and secondly, that members of Egyptian Islamic Jihad and the Algerian Armed Islamic Group (GIA) involved in international atrocities have been based in Britain at some point. But it is perhaps worth remembering that there has never been a major Islamic terrorist attack on the British mainland or British interests abroad.

How it works

Until very recently the British intelligence services didn't officially talk to newspapers at all. Certain favoured journalists who had connections to people who worked in the services were passed information from time to time if it was thought useful to put it in the public domain. Sometimes the stories that resulted were true and sometimes not. In recent years, after intense pressure, MI5 and MI6 instituted a new system whereby each service has an unofficial press officer who talks to the media. Most organisations then designate a journalist who will deal with each service. They are then given a telephone number and the name of the individual intelligence officer. In the case of the *Observer*, I deal with MI5. Although some newspapers or individual journalists may hold 'special relationships' with individuals within the intelligence establishment, as far as I know, the same MI5 'press officer' deals with all my opposite numbers on other national newspapers for everyday briefings. This individual has no expertise in Islamic or Arab affairs and simply acts as a conduit for those who deal with the Islamic terrorist threat within the Security Service. Natalia Garcia has asked me to elaborate further on this relationship, but this is not possible without identifying the individual involved or jeopardising the *Observer's* lines of communication with the intelligence services.

Most journalists agree that this is less compromising than the old system, but it is far from ideal. Any conversations remain strictly off-the-record and, for the most part, any quotes are attributed to 'sources'. Since September 11 newspapers, including the *Observer*, have become increasingly reliant on these briefings for information. Most journalists feel that, on balance, it is better to report what the intelligence services are saying, but whenever the readers see the words 'Whitehall sources' they should have no illusions about where the information comes from. In the period immediately following the events of September 11 and up to the new internment legislation, these journalistic briefings were used to prepare journalists for what was to come. Immediately before the men were taken into custody, I was not alone in being told that the choices had been very carefully made and that these men constituted a 'hardcore'.

From the cuttings provided, it is easy to spot where other such briefings have occurred, but I will give just one example. I have chosen it because of the impeccable reputation of the journalists concerned. It is from an article entitled 'MI5 searches for terror cells based in Britain' by Paul Lashmar and Chris Blackhurst in *The Independent* on 16 September 2001, less than a week after the attacks on the World Trade Centre and the Pentagon. Lashmar and Blackhurst are two of our most respected investigative journalists and were, at the time, in charge of investigations for the *Independent*. The article shows that even journalists as experienced as they are were forced to fall back on intelligence sources when assessing the Islamist threat in Britain. They report that at least three terrorist cells linked to Bin Laden are at large in Britain and that the UK has been a major base for Bin Laden's operations. They add that there are believed to be dozens of terrorists in Britain associated with Bin Laden. One 'intelligence source' is then quoted as saying 'There is no reason why what happened in America couldn't happen in Britain or any European country. The terrorists are in place, and there is very little to stop them.' A source, this time from 'Whitehall' adds: 'The problem is, these groups are amorphous and hard to identify until they commit a terrorist act.' This is terrifying stuff and the two journalists concerned were right to report what was said to them - indeed, it is hard to imagine anything that was more in the public interest. But it seems a little disingenuous of the intelligence services to present this as independent evidence of the threat, when the journalists are simply reporting what they have been told. It is particularly difficult when it would appear that they contradict themselves when talking to other journalists.

How serious is the threat?

I have been told by 'Whitehall sources' in recent weeks that Britain comes third in al-Qaeda's list of targets after the United States and Israel. I have no way of knowing if this is true and there appears to be no evidence of specific threats. What I do know is that al-Qaeda's rhetoric as seen in the various fatwas, interviews and statements from its leadership suggests that the

United States and Israel are the main focus of its attention. Apart from general threats against 'allies of the United States', I found only one serious threat to British people in the thousands of words from al-Qaeda documents in the bundles. The first came in a statement issued on October 10 2001 on al-Jazeera TV by al-Qaeda spokesman Abu Ghaith. It followed allied air strikes on Afghanistan. He orders British and American troops to leave the Arabian peninsula and adds: 'We also say and advise the Muslims in the United States and Britain, the children and those who reject the unjust US policy not to travel by plane. We also advise them not to live in high-rise buildings and towers' I have no doubt that this threat has been taken very seriously by the security services, but how far al-Qaeda has the capability to carry it out it not known.

The evidence in provided in the bundles is contradictory. A government statement dated 4 October 2001 said that the UK and UK nationals were potential targets. 'Al Qaeda retains the capability and the will to make further attacks on the US and its allies, including the UK.' But this appears to go against briefings given to the British press at Scotland Yard at the end of September 2001. As reported in the *Independent* on 29 September 2001, 'threat assessments' carried out by the security services have concluded that there is no evidence of a plot to commit a major attack on a British target. They have also told ministers that most of the key British-based supporters of Mr Bin Laden have been either extradited or arrested.'

There is a world of difference between a generalised threat and an imminent risk of attack and, in their selective briefings, the intelligence services can't seem to make up their mind which it is we are facing.

I should also add that within Islamist and wider Arab circles it has always been understood that the British authorities have traditionally taken a tolerant line towards Islamist dissidents. Much to the irritation of the French government and many Middle Eastern regimes, until recently it has been accepted that opposition figures were welcome as long as they committed no crimes on British soil. It was believed that such figures were a useful source of intelligence and the more cynical commentators believed they also acted as protection against attack - a kind of Islamist human shield. I do not know if this has genuinely been the strategy of our intelligence services in the past, but it strikes me as an eminently shrewd one. It also demonstrated a respect for freedom of expression and freedom of worship that are at the heart of British ideas of democracy.