

Campaign Against Criminalising Communities (CAMPACC)

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Dr Mark Egan
Commons Clerk of the Joint Committee on Human Rights

By email to jchr@parliament.uk

30 October 2009

Dear Sir

Call for evidence on the Government's draft legislative programme 2009-10

We welcome your call for evidence and seek to outline our concerns with regard to proposals to reform restrictions on the right to protest in Parliament Square, as contained in the Constitutional Reform and Governance Bill.

The Campaign Against Criminalising Communities (CAMPACC) was set up in early 2001 to oppose the Terrorism Act 2000. We are a non-party organisation supported by a number of lawyers, advocates for refugee and migrant communities, and civil liberties campaigners. We have campaigned against the Government's successive terrorism laws and supported the communities affected by them. We have worked with other organisations to highlight the clampdown on civil liberties and the right to protest.

The Constitutional Reform and Governance Bill.

We welcome the Government proposal, in part four of the Bill at clause 32, to repeal sections 132-135 of the Serious and Organised Crime and Police Act 2005 (SOCPA) and make amendments to the Public Order Act (POA) 1986. We consider that this brings to an end the draconian situation in which protesters can be prosecuted for exercising their legitimate right to protest at the seat of British democracy. We recognise the acknowledgement that there must be a willingness to accept some disruption during large scale protests and that restrictions should be in place only in order to facilitate access to the Houses of Parliament by members and the public. We consider that these proposals enhance the protection of the right to freedom of expression and the right to assembly.

Nonetheless, we have some concerns about the clarity of the proposals to introduce amendments to the POA, in schedule 4 of the bill, and suggest an additional amendment be made to the POA is made to ensure that Chiefs of Police consider whether his/her restrictions on protest around Parliament and beyond impede peaceful protest, no matter its lawful nature.

Under the CRG Bill's proposed new section 14ZA of the POA¹, processions or assemblies that take place within an area around Parliament may be subject to restriction by the senior police officer if, in his/her reasonable opinion, they are necessary for ensuring that the specified requirements (in subsection (3)) are met. It is of concern that these specified requirements have not been fully articulated in the Bill and that they may be amended by statutory instrument. We do acknowledge that subsection 4 highlights that accessibility to Parliament is the concern of these potential requirements however we consider that the lack of clarity in this section could be abused and run contrary to the stated aim of facilitating protest around Parliament.

We also note that, while the area in which these extra restrictions will apply has been reduced to 250 metres (section 14ZB²) from the one kilometre now in force under section 138(3) of SOCPA 2005³, this area still extends well beyond Parliament Square. We suggest that Parliament Square is specifically excluded from the area where these proposed additional restrictions will apply. We note, moreover, that any event in Parliament Square cannot inhibit access to Parliament, as it is cut off by busy roads from the Palace of Westminster and indeed Portcullis House. Further, we contend that the zone where restrictions could apply is focused only on the paths of entry to Parliament, and therefore a more nuanced and carefully drawn map is considered.

¹ **“14ZA Access to and from the Palace of Westminster POA 1986**

- (1) This section applies in relation to—
- (a) a public procession which is being held (or is intended to be held) where the route (or the proposed route) is wholly or partly within the area around Parliament (see section 14ZB), or
 - (b) a public assembly which is being held, or is intended to be held, wholly or partly within that area.
- (2) The senior police officer may give directions imposing on the persons organising or taking part in the procession or assembly such conditions as, in the officer's reasonable opinion, are necessary for ensuring that the specified requirements (see subsection (3)) are met.
- (3) For the purposes of subsection (2) the Secretary of State may by order made by statutory instrument specify requirements that must be met in relation to the maintaining of access to and from the Palace of Westminster.
- (4) They may include (for example) requirements as to the number or location of entrances to the Palace of Westminster—
- (a) which must be kept open, and
 - (b) to and from which there must be access routes for pedestrians and vehicles through the area around Parliament.
- (5) An order under this section may confer discretions on the senior police officer.
- ...
- (7) In relation to a public procession, the conditions that may be imposed under this section include conditions as to the route of the procession or prohibiting it from entering any public place specified in the directions.
- (8) In relation to a public assembly, the conditions that may be imposed under this section are limited to conditions as to the place at which the assembly may be (or continue to be) held, its maximum duration and the maximum number of persons who may constitute it.

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² **14ZB The area around Parliament POA 1986**

- (1) For the purposes of section 14ZA “the area around Parliament” means the area specified as such by the Secretary of State by order made by statutory instrument.
- (2) The area may be specified by description, by reference to a map or in any other way.
- (3) No point in the area specified may be more than 250 metres in a straight line from the point nearest to it in Parliament Square.

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³ **138 The designated area SOCPA 2005**

- (1) The Secretary of State may by order specify an area as the designated area for the purposes of sections 132 to 137.
- (2) The area may be specified by description, by reference to a map or in any other way.
- (3) No point in the area so specified may be more than one kilometre in a straight line from the point nearest to it in Parliament Square.

We are also concerned at the intentions behind the proposals for section 14ZC⁴ in which the Secretary of State may designate a building which is to be “used by a House of Parliament for the purpose of holding meetings of the House or of any of its committees (including joint committees).” Apart from Committee meetings that take place in Portcullis House (which is already covered by the 250m zone), we are unclear when this power would be necessary and are concerned at its possible abuse. The circumstances that would have to arise for normal parliamentary meetings not to take place in the House would most likely be one of a national emergency and are exactly the type where the Civil Contingencies Act 2004 would likely take effect. We therefore ask the Committee to scrutinise the intention behind this section and clarify its purpose and meaning.

Lastly, we suggest that the Bill should amend the Public Order Act 1986 to make it incumbent on the Chief Police Officer authorising restrictions to have in mind a duty to facilitate peaceful protest. This would be a change from the current consideration to facilitate lawful protest. One of the main concerns to date about policing practice in general and the enforcement of SOCPA in particular has been the use of police powers to break up or restrict protest that has been entirely peaceful, although possibly unlawful. Operations like that which brought a violent end to the peaceful climate camp occupation of a section of road in the city of London during the G20 summit or the arrest and prosecution of anti war activists near the cenotaph⁵, create a sense of distrust and hostility between protesters and the police, which is not helpful to either. It should be incumbent on senior police officers present on the scene to consider ways to ensure that any disruption to community life is managed rather than eliminated.

We are grateful to the committee for considering these submissions.

Lochlinn Parker
On behalf of CAMPACC

⁴ **14ZC Special provision if a House meeting outside Palace of Westminster**

(1) The Secretary of State may by order made by statutory instrument specify, for the purposes of this section—

- (a) a building situated outside the Palace of Westminster, and
- (b) an area, no point in which is more than 250 metres in a straight line from the point nearest to it on the specified building.

...

(3) The following subsections apply in relation to—

- (a) a public procession which is being held (or is intended to be held) where the route (or the proposed route) is wholly or partly within the specified area, or
 - (b) a public assembly which is being held, or is intended to be held, wholly or partly within the specified area.
- (4) The senior police officer may give directions imposing on the persons organising or taking part in the procession or assembly such conditions as, in the officer's reasonable opinion, are necessary for ensuring that the specified requirements (see subsection (5)) are met.

(5) For the purposes of subsection (4) the Secretary of State may by order made by statutory instrument specify requirements that must be met in relation to the maintaining of access to and from the specified building during any week in which the specified building is, or is planned to be, used by a House of Parliament for the purpose of holding meetings of the House or of any of its committees (including joint committees).

(6) “Week” means any period of 7 days starting with a Sunday.

(7) The requirements may include (for example) requirements as to the number or location of entrances to the specified building—

- (a) which must be kept open, and
- (b) to and from which there must be access routes for pedestrians and vehicles through the specified area.

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⁵ Maya Evans and Milan Rai were arrested on 25 October 2005 for reading a list of British and Iraqi casualties of the war in Iraq in contravention the restrictions under SOCPA 2005. They were later prosecuted, found guilty and ordered to pay a fine. Milan Rai refused to pay the fine and was jailed for 14 days.