

Terrorism v Human Rights

Where should the line be drawn in fighting terrorism?

“Give me liberty or give me death!” declared Patrick Henry in 1775. 230 years later, Tony Blair would state that “there is no greater civil liberty than to live free from terrorist attack”. Two men, facing what they both believed to be the major challenge of their times, came to very different conclusions on the proper balance between human rights and security. Was either correct? This essay will argue that the appropriate balance can only be found by accurately determining the severity of the threat facing the country, and that any response must be proportionate to that threat..

The best way to start this debate is to disregard romantic notions of the past, so we can look at the future from a firm footing. World War II and the ‘Troubles’ provide examples of the government curtailing civil liberties to preserve the state; the rolling back of freedom is neither unprecedented nor unconscionable in times of crisis. But the extent to which this should happen depends on the nature and scale of the threat facing the nation.

Few people resented the government for implementing curfews and ‘lights out’ policies during WWII. Even though they reached into every home in the land, none doubted their ability to save lives. The threat to the state was so severe that the public accepted a temporary reduction in civil liberties as a means of avoiding their complete extinction

under a Nazi regime. The balance between liberty and life was adjusted to ensure the long term survival of as much of both as possible, but what if the government gets the balance wrong? Internment in Northern Ireland must rank among the most counter-productive policies ever undertaken by the government. The threat to the state was overestimated and the response was so disproportionate that it fuelled more violence than it ever could have prevented - the week following the introduction of internment saw 7,000 people burned out of their homes and the following year was the bloodiest of the conflict.

How can we classify the current crisis? As Lord Hoffman aptly pointed out in December 2004 when ruling against the government's internment of foreign suspects, Al Qaeda does not pose a threat to the life of the nation. The current situation falls so short of a war that to describe it as one makes a mockery of the word. Northern Ireland, which saw shootings and bombings on an almost daily basis for decades, was classified as civil unrest at best and as a low intensity conflict at worst. Does one successful terrorist attack put Britain into either of those categories? Hardly. It became popular in the United States to believe that September 11th was an opening volley from Islamic fundamentalists, and that more devastating attacks would be forthcoming. Four years later, it has begun to look like an aberration. Is the government so certain that the same is not true of July 7th/21st that it is willing to implement the most draconian policies from the worst days of the Northern Irish conflict?

Prior to its defeat in the House of Commons, the Terrorism Bill promised two new bulwarks against sub-state groups: 90 day detention and banning the glorification of

terrorism. Such crass measures were ineffective against the IRA, and did nothing to dissuade their supporters. Banning the voices of Sinn Fein politicians from broadcast in an attempt to rob the IRA of publicity ultimately proved to be a farce, and was indicative of a government that failed to understand how its enemy functioned. Little more needs to be said about the problems of long term detention without charge.

Transparency is the key to maintaining public faith in the justice system during a time of crisis. Imprisoning a man for glorifying terrorism, but not allowing the media to repeat his remarks because to do so would be self-defeating, and holding secretive judicial reviews of prolonged detentions would not inspire public confidence in the justice system. What the government fails to appreciate when it says 'Trust us with these powers' is that many do not trust it, particularly within the Muslim community, and that the past thirty years are rife with examples of government abuse of terrorism laws. It is a perverse type of justice that cannot be seen to be done, and as the threat facing the UK is long-term according to the government, it would eventually become a hallmark of the British system of justice. A war against terrorism is a war without end: rights that are signed away without a restraining context are effectively lost.

To allow Patrick Henry a final word on the matter, "Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery?" Should we allow some men to languish in police custody for months because we fear for our own lives? The government thinks we should. It was fortunate for those imprisoned in Belmarsh until

March 2005 that the courts were able to find legal grounds for their release because the executive clearly had no moral objection to their imprisonment without charge or trial.

The new enemy has a larger base of potential supporters than the IRA without a sea to cross - these new organisations should be dealt with by removing those who cannot be reasoned with from society in a transparent manner and by tempting away those on the fringes. Appealing to those who still have doubts will be vital; if they can see a path to a better future without violence then they will take it. A young man who witnesses one of his parents or peers being dragged away in the middle of the night, deprived of freedom without explanation, charge or trial for months on end, will most likely find his mind resolved against the nation. If that happens, we will know we have crossed the line.

Timothy McAtackney, University of Ulster.