



Legislating Against Terror or Breaking Dissent? National Anti-Terrorism Laws 1998 - 2001

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Legislating Against Terror or Breaking Dissent? National Anti-Terrorism Laws 1998 - 2001¹

By Faisal Bodi

It is good to see conferences such as this discussing subjects like Islamophobia which ordinarily fall outside strict definition of racism, but which nevertheless usually stem from the same source, namely government abuse of power.

One little talked-about aspect of the standardisation that has come to characterise the global village and is the slow but sure spread of 'standardised' terrorism laws around the world.

Following the example of the US, its ever-loyal lapdog Britain, now has similar legislation in place. Canada has some elements of the US package in place and South Africa is considering its own.

So what is this great American export. It consists of two main strands.

(1) extra-territorial jurisdiction

(2) scope of definition

US and British variants of terrorism legislation share these two features in common. Firstly that offenders can be prosecuted for so-called terrorist acts committed outside these countries. The aim is to leave no hiding place for those who want to attack, however legitimately, US or British interests overseas.

Secondly and more crucial element is the breadth of the definitions of "terrorism". In both countries it is not confined to attacks against civilians. It also encompasses violence against foreign heads of state, without regard to their political legitimacy. To support this definition, both countries have drawn up lists of 'terrorist organisations' consisting of groups that agitate or advocate violently, or support the use of violence, against repressive and illegitimate governments. The important point to remember here is that technically the legislation outlaws all violent opposition.

Why would ostensibly democratic societies want to outlaw the activities of those who are campaigning for the same freedoms as themselves? After all the threat or use of violence has been an indispensable weapon in the armoury of legitimate political resistance movements everywhere, most notably here in South Africa where it has Nelson Mandela among its key advocates. Incidentally one of the ironies in the British context is that the man responsible for last year's terrorism act, former British Home Secretary Jack Straw, would himself fall foul of the law if it were applied retrospectively. During his time as the president of the national Union of Students the organisation officially supported the ANC which advocated violence in the fight to abolish apartheid.

The reason is political: to delegitimise popular struggles against oppressive and illegitimate regimes.

¹ This paper was prepared for the World Conference Against Racism, in Durban August 2001 and as a result does not cover new legislation enacted in the aftermath of September 11. As a result it provides a useful insight into the polarisation of the extremes of governmental power and mass disenfranchisement.

The legislation is driven by considerations of political interest, not human rights or any noble ideals of democracy or protecting public life. Taking advantage of the public dislike and fear of real terrorism - by which I mean non-retaliatory attacks against civilian targets - the US and UK have steamrollered through some of the most draconian laws on their statutes.

What are these political interests? We can all take it as fact that since the demise of communism the US and its western allies have turned their attention to Islam as the number one threat to their political and economic hegemony. Not only does Islam form the last powerful block of resistance to westernisation on the level of civilisation and ideas but its adherents, rather inconveniently for the West, just happen to sit atop the most valuable real estate. This is where the fuel of the global economy, oil is concentrated. It is with a view to keeping the supply of oil uninterrupted and on favourable terms that the autocrats of the Middle East owe their power. They enjoy western protection as a reward for signing over the region's wealth.

The terrorism laws have to be seen in this context. They are a pretext to arrest those activities and curb those groups whose activities threaten to undermine the west's relations with friendly and dependent foreign governments, especially those with restive Muslim populations.

Since western hegemony comes at the expense of millions of ordinary Muslims, it's hardly surprising to see growing numbers of them drawing on the rich theology of resistance offered by their religion. The west knows this only as Islamic fundamentalism but in reality it is an exercise of the right to self-determination or self-defence. Rather than work on areas of commonality the west has opted to go to war against these Islamic political movements.

This theory is supported by the timing of the new laws. They were all instituted at a time when western governments faced increasingly strident calls from governments in the Middle East to rein in those who advocate armed struggle against illegitimate regimes from their bases in London and Washington. Egypt, Algeria, Saudi Arabia to name but three Middle Eastern regimes have been at the forefront of demands to curb the activities of activists who use the west as a base for their operations. India and Israel, two notorious 'democratic' oppressors of Muslims, have also been voluble.

The US found a pretext after the World Trade Centre bombing in 1993. In 1996 the US passed the Anti-terrorism and Death Penalty Act. In Britain the arrival in 1995 of Saudi dissidents Mohammed al -Masari and Saad al-Faqih as exiles from Saudi Arabia drew attention to the host of groups working from London, the Beirut on Thames phenomenon.

There is another interesting aspect to the timing. It has been observed that in the UK the laws came at a time when the threat of so-called terrorism was receding. The Irish liberation movement, the IRA had signed up to the Good Friday agreement, an essential part of which was the renunciation of armed opposition. Since Britain has never been the target of a major terrorist attack from an international source it begged the question of why tougher laws were being enacted when the threat from terrorism was actually diminishing.

The answer lies in the need to seek to protect an international status quo in which western interests enjoy paramouncy. Such is their dependence on Middle -east oil - an average 16 million barrels a day travel through the Persian Gulf alone - that there can be no question of unsettling the oppressive

political edifice which supports it. In short there is no way that western access to oil can be allowed to be jeopardised.

It is with this in mind that the laws apply to military targets. Most people normally associate terrorism with acts of violence against civilians. Under the US and UK laws, for the first time in history, they apply also to attacks on military personnel. So it makes no difference whether it's the bombing of the USS Cole in Aden or the killing of US civilians in the jungles of the Philippines; it is all terrorism.

Forget the actual use of force. You are now not even allowed to advocate it. The laws are so severe in scope they actually even prohibit the mere advocacy of violent methods. So in both the US and UK it is a crime to call for the violent overthrow of a head of state, no matter how repressive he is. Holding a mere banner or wearing a T-shirt can represent an infraction. To all intents and purposes dissent has been criminalised.

Of course the laws are applied selectively. Whereas you'd probably be arrested for campaigning for the overthrow of King Fahd, agitating similarly against Saddam Hussein would not. Or if you were an Israeli reservist whose duty in the West Bank or Gaza enforcing an internationally illegal occupation you're not going to be a target unlike the liberation fighter from Hamas or Islamic Jihad.

These examples give the lie to the idea that there is a principle being defended here. The only thing being protected are western interests. The fact has caused many observers to remark on the irony that instead of devising laws based on considerations of human-rights, the US and UK have both sunk to Middle Eastern depths of despotism.

It is hardly surprising then to find that Muslim, Arab and Kurdish liberation organisations predominating in the lists of terrorist groups that are an offshoot of this legislation. In the US they form 14 of 18 groups in all. In the UK the first list to be introduced after the Terrorism Act came into force earlier this year contained 21 groups, out of which 11 were Islamic or Arab. The US also has a list of terrorist countries, often called rogue states, including Libya, Sudan, Iraq, Iran, Syria and the two recalcitrant communist regimes, Cuba and North Korea, which are subject to economic sanctions. These are countries which supposedly support "terrorist activity and groups."

I hope you're beginning to get some indication of the systematic attempt being made to blackball groups and countries which are, to varying degrees and for varying reasons, engaged in causes that don't dovetail with western foreign policy. We shouldn't underestimate the priority that is being accorded this task. When Interpol appointed its first American, Ronald Noble, as head of the international criminal police organisation in 1999 his first words were that he planned to focus on combating terrorism.

The issue is one that is on the agenda of the G8 countries each time they meet. Canada appears to be following the US and UK model and this year introduced a bill which allows intelligence services to strip organisations of their charitable status if they are suspected of funding violent political activity abroad. The bill gives police the power to challenge a charity's legitimacy in closed court - a measure that allows no possibility of public scrutiny of the proceedings. It's very much like the US where secret evidence - evidence that is not adduced before the defence - has been used to prosecute

Muslim suspects. It's yet another example of how countries are prepared to override standard legal safeguards and norms when it comes to dealing with Muslim dissidents.

It goes without saying that US and UK legislation already prohibits fundraising on behalf of "terrorist organisations". These laws have the professed aim of closing off the last few free monetary channels open to resistance groups, who for obvious reasons cannot hold money in their countries of origin.

But the fact that it is so easily circumvented - after all it is so easy to transfer money between countries and banks - suggests that it has another purpose which is to criminalise or at least make suspect charities linked with peoples in uprising or resistance. In Britain, not a single organisation has yet been found guilty of the offence, although admittedly it is early days. But even before the laws came into existence the climate of panic whipped up by Zionist groups prompted a witch-hunt against Muslim charities. One, Interpal, had its accounts frozen in 1995 after mere allegations by the British Board of Jewish Deputies, only to be given the all clear after an official investigation.

The US, UK and Canada don't appear to mind that their laws contravene internationally agreed standards. The UN General Assembly voted in 1979 to affirm "the legitimacy of the struggle of peoples under colonial and alien domination recognised as being entitled to the right of self-determination to restore themselves that right by any means at their disposal." It also affirmed the right of such people "to seek and receive all kinds of moral and material assistance".

But like I said, this is not about law, it's about political interests. And the abuse of power is shamelessly naked. In Britain we have the dubious distinction of holding one of the most scandalous definitions of terrorism anywhere in the world. Last year the former Home Secretary Jack Straw - yes he who formerly supported the right of the ANC to hold arms - ordered a Pakistani Imam, Shafiq ur-Rehman to be deported. The new terrorism laws weren't in place yet so the device he used was the Immigration Act. And the grounds? Well, they were that the Imam actively supported terrorism in the disputed Indian-administered region of Kashmir, raising funds and recruiting personnel from his home in the north west of England.

Embarrassingly for the government, a special appeals court later overturned the deportation order saying that none of the several allegations against Mr Rehman were founded. But the government was not to be outdone. It appealed the decision and last year another court upheld the original order. But what was most alarming about this case was the definition of terrorism, or national security threat, the judge established. "A person may be said to offend against national security if it engages in, promotes or encourages violent activity which is targeted at the UK, its system of government or its people. This includes activities directed against the overthrow of a foreign government if that foreign government is likely to take reprisals against the UK".

More disturbingly the definition went on to say that it didn't matter if Mr Rehman had in fact endangered national security, according to this sweeping definition; it was merely enough that he was capable of doing so. So the fact that you now morally support a political cause that is at odds with your government's foreign policy is enough to brand you a terrorist.

In terms of their effect on the activities of these groups it is going to be limited. As I've already explained for every country that bans the collection or transfer of funds there is another where it is legal. And the fluidity of money these days means such laws are very difficult to enforce. Besides the

laws are unenforceable. Could the authorities conceivably jail all the imams who prayed in their sermons for the success of Hizbollah and Hamas, or for the thousands who march in their support? No they couldn't.

Where the laws do have a great impact however is on public perception. Outlawing groups and causes is going to have the effect of criminalising them in the street. In an already Islamophobic environment they only reinforce old stereotypes and prejudices about Muslims. This encourages hatred and violence, as has been seen on British streets this summer, where far-right groups have openly attributed the urban unrest to a growing "Muslim problem", to the growth of so-called militant Asiatic religions. In the days after the 1995 Oklahoma bombing, there were over 200 attacks against Muslims in the US.²

Talk of terrorism is diversionary tactic. It's a classic example of the use of spin to construct an artificial real.

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² Since the September 11, 2001 the number of anti-Muslim incidents in the UK to the end of the year numbered in the region of 400 (see IHRC 'UK Today' reports).



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