



**REPORT TO THE ISLAMIC HUMAN RIGHTS
COMMISSION ON THE DETENTIONS
UNDER THE ANTI-TERRORISM CRIME AND
SECURITY ACT 2001**

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**REPORT TO
THE ISLAMIC HUMAN RIGHTS COMMISSION
ON THE DETENTIONS
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1. I am a Solicitor acting for two people detained under the above legislation and have been asked by the Islamic Human Rights Commission to report on the implications of these detentions in the context of the backlash against Muslims following the events of September 11th 2001.
2. It is my view that the legislation was a panic response to September 11th, and was passed precisely in the context of the backlash against Muslims following September 11th. It has also served to fuel the backlash and increase Islamophobia whilst it has not actually addressed any of the issues which the Government claimed was its purpose.
3. David Blunkett's position is that he has had to suspend the right to liberty and the right to freedom from arbitrary detention because there is a public emergency which gives rise to a need to detain indefinitely foreign nationals who cannot be removed from the UK due to a point of law relating to an international agreement or practical considerations. The specific source of the threat giving rise to the claimed public emergency is alleged to be persons linked with Al-Qaida. Indefinite detention without trial breaches Article 5 of the European Convention for the Protection of Human Rights (ECHR) which is incorporated into British law by the Human Rights Act 1998. Thus, in order to be able to detain people indefinitely without trial the government had to derogate from Article 5 ECHR and the requirement for derogation is that there must be a "public emergency threatening the life of the nation." David Blunkett declared that there was such an emergency, despite stating, when announcing the proposal for the legislation in October 2001 that "there is no immediate intelligence pointing to a specific threat to the United Kingdom..."
4. The legislation was rushed through Parliament at breakneck speed. On 13th November 2001 the Human Rights Act (Designated Derogation) Order 2001 came into force. On 14th December 2001 the Anti-Terrorism Crime and Security Act 2001 received Royal Assent and Part 4 (which concerns indefinite detention without trial) came into force on that date. On 19th December 2001 eight men (all Muslims) were detained under the new Act. A further three (also Muslims) were detained subsequently, making a total of 11.
5. Of importance is the fact that the men were not even technically arrested - as an arrest under criminal legislation provides a person with rights. When these men were detained they had no rights. They were taken straight to high security prisons without having been questioned or interviewed, without having been

charged and without having any idea of the basis of the allegations against them.

6. The conditions in which they are being held are inhuman and degrading. They are all being held in solitary cells and at the beginning were kept locked up for 23 hours a day. At the moment they are locked up for up to 22 hours per day. Those with families had to wait between three and four months for security clearance to be given for their families to visit them. They are also strip searched before and after all visits whether they be legal or social visits. This means that on a day where they have one visit in the morning and one in the afternoon, they are strip searched four times. This is particularly humiliating for them as Muslims. The conditions in the prisons have given rise to serious concern and human rights groups such as Amnesty International have become involved and have expressed their concerns to the Government. In their latest report published on 5th September 2002 entitled "Rights Denied: The UK's Response to 11th September 2001" Amnesty International states that the conditions of detention amount to "cruel, inhuman or degrading treatment" and that "Amnesty International believes that their continued detention without trial or charge for an unspecified and potentially unlimited period of time at Belmarsh and Woodhill prison may lead to a further deterioration of their physical and mental health".
7. Not only have the detainees not been interviewed, they are detained on the basis of mere suspicion. The 2001 Act states that a group may be an "international terrorist group" simply because the Secretary of State "suspects" that this is the case. In order to be detained under the Act a person must only be suspected of being an "international terrorist." A person may be designated as an international terrorist on the basis that the Secretary of State "suspects" (note that he does not have to "believe" or to even have "reasonable grounds to believe") that the person is a "terrorist". It follows that if detention can be on the basis of suspicion alone that criminal charges do not have to be brought - and this is what has happened in these cases. There are no criminal charges - there are simply allegations which are vague and unsubstantiated. The men have been held for 9 months on the basis only of such allegations and may potentially be held for an unlimited period on the same basis.
8. To compound this there is the issue of the "closed evidence" and the "closed hearings." This is evidence to which we have no access and hearings from which we and the Appellants are completely excluded. The reason given for this is that to make the "evidence" public could jeopardise the security services methods of operation, their sources of information, place other people in danger or create a security risk. It is impossible to respond to this evidence in any way shape or form. It is never presented to the Appellant or his representatives. The importance of this cannot be overestimated. Imagine a scenario where a record of a telephone conversation is presented to the court in the closed evidence. We have no way of knowing that such a conversation has even been presented, no

way of taking the client's instructions on the parties to the conversation, or the context, circumstances or meanings of the conversation or the motives of the people involved in the conversation. It is a basic principle of justice that a person should be able to challenge the evidence against them. The Secretary of State admits that he does not have sufficient evidence to pursue criminal charges otherwise he would have done so. In detaining people under the 2001 Act he has effectively removed all the safe guards in the criminal procedure with regards to evidence which means that the detainees will not receive a fair hearing.

9. We, together with the representatives of the other detainees, challenged the legality of the legislation with regards to the derogation from Article 5 ECHR. The first forum for this challenge is the Special Immigration Appeals Commission (SIAC). Their judgment was issued on 30.07.02 and they found that the legislation is discriminatory because it targets only non British citizens. The Home Office has appealed the judgment and, in the mean time the men remain detained because SIAC does not have the power to strike down the legislation. The Home Office appeal is due to be heard in the Court of Appeal in October 2002. By then the men will have been detained for 10 months in a situation equivalent to having been convicted without having been charged or tried and to having been given an indefinite sentence.
10. The legislation only applies to foreign nationals, and so far it has only been used against Muslims. It is clearly the manifestation of state Islamophobia at its highest and it is significant that the UK is the only country in Europe to have derogated from Article 5 in order to impose such draconian legislation.

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