

WHAT IS NEW UNDER THE PTA???

In March this year the Government repealed the Prevention of Terrorism Act (PTA) and replaced it with a new version, the 1984 Prevention of Terrorism Act. The move came after many years of almost routine renewal of the Act by Parliament since the original PTA was introduced by Labour in 1974 as an "exceptional" and "temporary" measure. However in 1982 this consensus renewal broke down - when Labour abstained in the renewal debate - leading to the decision by the Conservative Government to appoint Lord Jellicoe to examine the operation of the Act. Subsequently, the Government decided to introduce some changes based largely on the Jellicoe recommendations.

There are some important differences between the 1976 and the 1984 Acts. However other changes are not significant in terms of increasing the protection of individual rights and freedoms in practice. The extension of arrest powers to people suspected of involvement in political violence in any foreign country has raised concern that the new Act effectively enlarges the circle of people whose civil liberties and legitimate political activity may be constrained and threatened by the Act.

NEW PROVISIONS UNDER THE 1984 PTA

COMMENT

* The Act has a maximum life of 5 years.

* This may reinforce the "temporary" and "exceptional" nature of the Act, but it may discourage MPs and others from scrutinizing closely the need for and effectiveness of the Act during the yearly debates. After 5 years, the Government could introduce other anti-terrorist legislation to similar effect.

* Exclusion orders lapse after 3 years (subject to renewal) and cannot be served on people who have lived in the territory concerned for more than 3 years (previously 20 years).

* This may prevent some of the most distressing cases of people removed from their home of many years into an unknown place or country - but the power remains to impose internal exile and to cause immense hardship to a lot of other people, still without recourse to a court of justice.

Exclusions in force at the time of enactment will lapse 3 years from 22 March 1984.

Lapsed exclusions may be renewed at the discretion of the Home Secretary.

* After the initial 48 hours of detention, the Home Secretary can authorise extensions for anything from 0 to 5 days (instead of a fixed 5 days).

* It remains to be seen whether this will make any difference to the length of time that people are detained without charge. In the past people held under 5-day-extensions were released earlier if the police had no more questions to ask.

The maximum length of detention before charge remains at 7 days.

Prevention of Terrorism Act Research Project

A newsletter of the
National Council
for Civil Liberties
No. 1 Nov. 1984

NCCL, 21 Tabard St.
London SE1 4LA

PTA
PTA
PTA
PTA
PTA
PTA

* At ports of entry, people can still be examined without "reasonable suspicion" being required, but the power to examine lapses after 12 hours. At this point the examining officers may decide to detain if by then they have formed "reasonable suspicion".

The maximum length of detention at ports remains 7 days.

* Withholding information from the police remains an offence but it no longer carries the power of arrest under the Act.

* The powers of examination at ports, detention and arrest are extended to individuals suspected of involvement in political violence in any foreign country ("international terrorism").

* The power to stop travellers at random for search and prolonged questioning about their private lives remains a disturbing part of the Act.

There is at present no indication that safeguards will be introduced to ensure that genuine "reasonable suspicion" exists as a basis for detention beyond 12 hours.

* Technically a welcome change, but people suspected of withholding information can still be arrested under the normal power of arrest. The threat of prosecution can still be used to persuade people to give up their right to silence.

* At the time of introduction British-based organisations working with refugees and supporters of liberation groups in South Africa were among those to oppose the new powers on the grounds that they might result in harassment of members of political groups living peacefully in the UK.

During the debate a number of MPs concerned with the erosion of civil liberties objected vigorously to the renewal of the "emergency" powers. The government majority however defeated most of the proposed amendments.

During the report stage in the House of Lords, the government agreed (under pressure from the Liberal and independent peers) to appoint a single person as "Commissioner" to review the operation of the Act each year and report to Parliament before the annual renewal debate. S/he would not hear appeals or assess whether the powers had been used correctly in individual cases. The Commissioner's role would be to examine the use made of the powers, whether for instance any patterns had emerged which should be drawn to Parliament's attention. This report would be published. (To date, we do not know who is to be appointed as the Commissioner.) The Government also conceded that Parliament be given the opportunity to debate the draft renewal order each year at least one month before the date of renewal and that the government would consider how the points raised in those debates might be included in the revised order. (Eg. Parliament could ask for one part of the Act to lapse.)

During the Commons committee stage, the Government undertook to issue a circular to the police (and to instruct customs and immigration officials) advising them not to use the wide powers in clause 12 (3b) (relating to international political violence) unless there is a possibility of the individual being deported or charged with an offence. This concession was the result of considerable lobbying by organisations concerned that the new powers to detain individuals suspected of involvement in political violence anywhere in the world, (whether or not it had any connection with the United Kingdom, or whether they could be charged with an offence in this country) could be used to harass foreign students and refugees and people involved in liberation movements abroad. This circular was issued on 22 March 1984.

NCCL CALLS FOR EVIDENCE ON THE OPERATION OF THE PREVENTION OF TERRORISM ACT

NCCL needs information from sources with direct experience of the operation of the PTA, in particular people who have been examined at ports, arrested or excluded under the Act, or whose houses have been searched.

General Secretary Larry Gostin said: "We are concerned about the PTA because it removes certain legal safeguards that exist in the British justice system to protect individuals from arbitrary arrest, coercive treatment, and sanctions imposed without proper trial. We want to find out how these provisions are operating in practice.

IF YOU THINK YOU KNOW OF PEOPLE WHO HAVE BEEN HELD UNDER THE PTA, PLEASE LET US KNOW. PERSONAL INFORMATION WILL BE KEPT CONFIDENTIAL. CONTACT: PTA RESEARCH, NCCL, 21 TABARD ST. LONDON SE1, TEL.403-3888.

PARLIAMENTARY DEBATE ON THE 1984 BILL

Throughout the spring of 1984 NCCL campaigned against the re-enactment and extension of the PTA

NCCL is opposed to political violence. The experience with the 1974 and 1976 Acts has shown however that, far from helping to prevent violence, the restriction of civil liberties feeds the conflict from which violence emerges.

NCCL prepared detailed briefings on the civil liberties implications of each section of the Bill, and drew attention to the fact that there is no evidence that the police need powers additional to those already available under criminal law to deal with politically motivated crimes.

GOVERNMENT ASSURANCES ABOUT
RESTRAINED USE OF THE NEW
"INTERNATIONAL" PROVISIONS NOT
ENOUGH

The sections of the PTA concerning powers of examination at ports, detention and questioning (ss. 12 and 13) have been extended to cover people suspected of involvement in political violence anywhere in the world.

This extension of police powers of examination, detention and arrest is such that now a large number of foreign groups, or British groups with connections overseas, come under the net of the Act, for prolonged detention, questioning, and information gathering by the police with no access to the courts.

It is important to note that crimes associated with "international terrorism" - such as murder, hijacking, hostage taking - are covered by existing criminal law and by international conventions drawn up for the purpose of dealing with these offences on a transnational basis. Therefore, the extension of the PTA is purely for detention and interrogation purposes, not for prosecution.

At the time of their introduction in early 1984, these new powers were strongly opposed by NCCL and other organizations; including the British Refugee Council, British Council of Churches, Anti-Apartheid, The Catholic Institute for International Relations (CIIR), CARILA (which represents the human rights commissions of several Latin American countries), The Joint Council for the Welfare of Immigrants, the Namibia Support Committee and the El Salvador Solidarity Campaign. They all shared the concern that the powers are not only unacceptable in principle but could be used arbitrarily against people with overseas connections and that refugees and black visitors would be particularly vulnerable. There was also concern that the broad definition of "terrorism" in the Act (use of violence for political ends) would lead to a stifling of legitimate political debate and

support for overseas liberation groups whose activities have nothing to do with the United Kingdom.

The Home Office argued that the powers were necessary to respond to violent attacks against the United Kingdom's interests here or abroad and gave assurances that the situation of people living peacefully in the UK, including members or supporters of liberation groups abroad, would not be affected. It further issued a circular to the police advising that the new powers should not be used unless there is some prospect of the person being charged under UK law or deported under the 1971 Immigration Act. This advice however does not have the force of law and the police can ignore it if they choose to do so. Because the circular is not part of the Act itself, and only represents a concession by certain government officials, it can be withdrawn or changed at will in the future. There is nothing in the law to stop present or future officials from increasing surveillance of certain groups, or even carrying out deportations - for example, as a result of pressure from a foreign government.

Already, several cases have come to NCCL's attention that reinforce our concern about the way the new provisions might be applied:

* Last May, Milan Rai, a young student from Nepal, was stopped under PTA powers at Folkstone after a short holiday in France. Both he and his luggage were searched twice, and he was interrogated for nearly two hours about his personal life and association with lawful and public British organisations such as anti-nuclear and peace groups. He was not allowed to contact a friend while in detention. Mr Rai was allowed to go after questioning but he was deeply shaken by the experience. He still does not know why he was singled out for examination, save for an officer's remark about his casual dress.

* In October, a cultural delegation visited the United Kingdom and Ireland. The tour was sponsored by the Commonwealth Foundation and several local authorities. The delegation was received by Lord Mayors in various locations. On their return from Ireland, the delegation and their hosts - from the Namibia Support Committee - were held at Holyhead Docks and questioned. A British woman accompanying the group was strip-searched and quizzed about her connection with SWAPO.

It was precisely these types of incidents that NCCL and the other organizations that the other organisations that opposed the extension of these powers had feared. There is no legal remedy in either case that in both instances the police appear to have acted against the advice issued by the Home Office.

NCCL and COBDEN TRUST Publications

Supergrasses: The use of accomplice evidence in Northern Ireland £1.50

Tony Gifford. The results of Lord Gifford QC's investigation into the use of supergrass evidence in Northern Ireland, where many have been charged and convicted, frequently on the uncorroborated evidence of an accomplice.
Cobden Trust. 1984. ISBN 0 900137 21 5.

Use and Abuse of Emergency Legislation in Northern Ireland £2.95

Dermot Walsh. This important new survey of the administration of justice in Northern Ireland describes the continuing abuses of civil liberties which take place under the emergency legislation. It examines arrest, interrogation and the operation of the non-jury Diplock courts by analysing the official court records and draws on a series of interviews with people from both sides of the religious divide who have been detained under the emergency laws.
Cobden Trust. 1983. ISBN 0 900137 20 7.

Death on the Streets of Derry 75p

Tony Gifford. The results of Lord Gifford QC's investigation into the death of three youths in Derry in 1981. Two were killed by an Army Land Rover and one by a plastic bullet.
NCCL 1982. ISBN 0 901108 98 7.

Ten Years on in Northern Ireland £2.50

Kevin Boyle, Tom Hadden and Paddy Hillyard. A further study of policing and the admission of justice in Northern Ireland, examining how many policing and legal practices are now regarded as normal.
Cobden Trust. 1980. ISBN 0 900137 16 9.

USE OF THE 1984 PTA : STATISTICS
FROM APRIL TO SEPTEMBER 1984

Persons detained under the 1984 Act in Great Britain, 22 March to 30 September.
Statistics do not include persons questioned but not arrested, and persons examined at ports but not detained.

N.I. Affairs International

Detentions:

Ports	39	4
Inland	19	32

Extension beyond 48 hs:

Ports	6	1
Inland	2	13

Charged :

Under PTA	6	-
Conspiracy	-	-
Other	1	7

Exclusions: 1

Deportations

Ports		1
Inland		8

<u>Released</u>	51	20
-----------------	----	----

source: Home Office Statistical Bulletin, 25 Oct. 1984.

THE NEW POLICE ACT AND THE PTA

The Police and Criminal Evidence Bill finally completed its passage through Parliament in November 1984, after several years of controversy. Virtually intact are the threats to civil liberties posed by the new powers to stop and search people in the street, to hold people for questioning for up to 96 hours, to carry out intimate body searches at police stations, and to search third party premises.

The new provisions are likely to come into force gradually during 1985. The new powers relating to detention are not expected to be in force until the second half of the year.

The Police and Criminal Evidence Act includes special provisions for people held under the PTA which place them in an even worse position than other detainees.

PROVISIONS FOR PTA SUSPECTS:

** Access to a solicitor, friend or relative can be delayed for up

to 48 hours (36 hours for other detainees);

** The power to hold incommunicado for up to 48 hours applies to any PTA detention (for non-PTA cases, delays in allowing contact with a lawyer or relatives can only be authorised for cases involving serious arrestable offences)

** The grounds for delaying access to a relative, friend or solicitor include a belief by the police that this may interfere with the gathering of information (this is not sufficient grounds in non-PTA detentions).

** The police can listen in while a PTA detainee talks to his or her solicitor if a high-ranking officer authorises it.

At present the rights of suspects are set out in the Judges Rules, which do not have the force of law and which are often ignored by the police. These Rules will be replaced by Codes of Practice. The Codes will again be administrative instruments without legal force.

THE PTA IN NORTHERN IRELAND: YOUTH MALTREATED IN BELFAST

PAUL CARUANA, a 24-year-old from Derry, was arrested as he walked in the street on Saturday 11 August 1984. He was taken first to Strand Road and then to Castlereagh police station in Belfast. The next day questioning started. Mr Caruana said later: "I was on a sitting position on the floor and one of the officers started forcing my head between my legs while the other held my feet. At one point the officer pushing my head down climbed on my back and started pushing all his weight on me. The pain was so severe that I cried out 'Oh Jesus, No!' One of them said, 'You could make this a lot easier for yourself'."

The next morning Mr Caruana was in pain and was taken to Dundonald Hospital, where he was X-rayed and given a cervical collar. He was taken back into the custody of the same officers at Castlereagh, despite the fact he had complained of maltreatment.

The interrogation sessions continued. Mr Caruana alleges that he was slapped on the face, pushed, spat upon and repeatedly insulted. He stated that at one point one officer brought a black plastic bag: "They pulled the bag over my head and held it tight around my face. I couldn't breathe... The same thing happened the following day".

COMPLAINTS MADE

Mr Caruana was released on the 5th day without charge. He has registered a complaint about his treatment, which is being examined by the RUC Complaints and Discipline Branch, and which will then be sent to the Director of Public Prosecutions.

NCCL intervened on behalf of Mr Caruana and asked a senior doctor at Derry hospital to carry out an independent medical examination. The examination was carried out less than 2 days after

Mr Caruana's release. Medical findings about his physical condition were consistent with the alleged treatment. A psychiatric examination carried out by a consultant established that Mr Caruana was suffering from a severe anxiety state.

Mr Caruana said: "I'll never get over it for the rest of my life. I've never been through anything like this before. I've never been in trouble before. I think something should be done about it."

NCCL continues to follow the investigation. A number of MPs and MEPs have also taken up the case.

Title: Prevention of Terrorism Act

Organisation: National Council for Civil Liberties

Date: 1984

Downloaded from the Irish Left Archive.

Visit www.leftarchive.ie

The Irish Left Archive is provided as a non-commercial historical resource, open to all, and has reproduced this document as an accessible digital reference. Copyright remains with its original authors. If used on other sites, we would appreciate a link back and reference to the Irish Left Archive, in addition to the original creators. For re-publication, commercial, or other uses, please contact the original owners. If documents provided to the Irish Left Archive have been created for or added to other online archives, please inform us so sources can be credited.