

IS IT ACCEPTABLE TO SUSPEND THE RIGHTS OF INTERNATIONAL TERRORISTS DURING A NATIONAL CRISIS?

A v Secretary of state for the Home Department: Belmarsh Prison case.

A number of foreigners were detained indefinitely and without trial in Belmarsh prison because the UK government suspected them of being international terrorists. Following the 9/11 attacks, the UK government passed the 'Anti-terrorism, Crime and Security Act' 2001 which stated in part 4 that the Home Secretary could issue a certificate against someone if they believed that the person's presence in the UK was a threat to national security, if they were suspected of being an international terrorist and if they were a foreigner. A suspect could then be detained without a conviction or trial. However, this took away the suspects' right to liberty, protected by Article 5 of the European Convention on Human Rights. The issue was whether the government's actions were justified by Article 15 of the ECHR which allows suspension of some human rights within the context of a war or public emergency, provided that the rights suspended were made necessary by the nature and gravity of the emergency. 8 out of the 9 law lords judging the case agreed that there was a public emergency however, out of these, 7 disagreed that the government's action of imprisoning the suspects was necessitated by the circumstances. After the lords issued a 'declaration of incompatibility', the European Court of Human Rights repealed part 4 of the 2001 Act. This case highlights the importance of having an organisation which ensures that human rights are upheld, especially in times of public emergencies, not excluding these times.

Are human rights incompatible with anti-terrorism laws?

Sir David Omand states that the main reason for the failure of the government's Prevent scheme was the blurring of the lines between two actions: Preventing violent extremism and dealing with disadvantage, poverty and other sources of inter-community tension.

Protecting human rights and establishing effective anti-terrorism laws do not have to be mutually exclusive. Keir Stammer who has prosecuted terrorists states that 'rights compliance helps effective outcomes, it does not hinder them'. Preserving a suspect's right to liberty and fair trial can indeed prove as a more effective way of combatting terrorism. In times of national crisis, there is only a greater need to uphold the rights which protect each individual and prevent further crisis.

Why do anti-terrorism laws get harsher during a crisis?

Even in a 'normal' state when a country isn't involved in a war or a crisis, in order to keep the public confidence in the legal dispute resolution process, the government have to be seen actively penalising those who break the Law. This becomes, arguably, more important in a crisis when the government's actions have to ensure the public that those who threaten national security are being dealt with accurately. This public desire for security was present after the First World War, when Lloyd George's electorate wanted to 'make Germany pay' and Georges Clemenceau didn't win the elections for giving Germany lenient punishments. So perhaps combatting the issue of anti-terrorism laws interfering with human rights begins with changing social attitudes.