

Media Advisory

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Media briefing -- UK Terrorism Act 2000

Yesterday (19 February) the United Kingdom government brought into force the Terrorism Act 2000. Amnesty International considers that this legislation contains provisions which either directly contravene international human rights treaties to which UK is a party, or may result in violations of the rights not to be subjected to torture or ill-treatment, to fair trial and to freedom of expression and association. Some of these provisions were drawn from previous emergency or temporary legislation, which in the past facilitated serious abuse of human rights, as extensively documented by the organization throughout the years. As a result, Amnesty International has grave concerns about this Act and will monitor its implementation.

The creation of a permanent distinct system of arrest, detention and prosecution relating to "terrorist offences" may violate the internationally recognized right of all people to be equal before the courts. This different treatment is not based on the seriousness of the criminal act itself but rather on the motivation behind the act, defined in the Act as "political, religious or ideological". Some of the provisions that Amnesty International is concerned about in particular are the following:

\$ the wide definition of "terrorism" includes not only the use but also the threat of action involving serious violence against a person or serious damage to property or designed to seriously interfere or disrupt an electronic system. The purpose qualifying such an action or threat as terrorist, i.e. advancing a "political, religious or ideological cause", is also very wide and open to subjective interpretation. The definition is vaguely worded and could be extended to include supporters of, for example, animal liberation or anti-nuclear campaigns and others. The lack of a clear definition gives cause for concern because the decision to bring a prosecution for such offences could be seen to be political;

\$ wide-ranging powers of arrest without warrant;

\$ denial of a detainee's access to a lawyer upon arrest: the right to legal assistance can be delayed, up to 48 hours, if the police believe the granting of this right may impede the investigation;

\$ the Act allows for a consultation between lawyer and detainee to be held "in the sight and hearing" of a police officer, if a senior police officer has reasonable grounds to believe that such consultation would lead to interference with the investigation. Separate provisions, in relation to Scotland, similarly allow for an officer "to be present during a consultation". These powers breach international standards;

\$ the maximum period of detention without charge is seven days, with an extension of up to five days being granted by a judicial authority after the initial 48 hours. The provisions regarding judicial supervision of detention are still significantly weaker than under ordinary legislation. Under ordinary legislation, the maximum period of detention without charge is four days, with further 36-hour and 24-hour extensions being granted by a judicial authority after the initial 36 hours;

\$ provisions giving the Secretary of State the power to direct "the place where a person is to be detained" are of concern if people arrested under this legislation could be detained at special interrogation centres, as opposed to designated police stations;

\$ the shifting of the burden of proof from the prosecution to the accused who must prove their innocence in various provisions of the Act; such provisions undermine the fundamental right to a presumption of innocence. For example, it is a criminal offence to collect or make a record of or possess information likely to be useful to a person committing or preparing an act of terrorism, including a photographic or electronic record; it is a defence for the accused to prove that he had a reasonable excuse for his action or possession;

\$ possible infringement of the right to freedom of expression and of association in some provisions of the Act, e.g. in the new offence of "inciting terrorism overseas" which could be committed by words alone. There is a danger that prosecuting such "inciters" may be prompted by overseas repressive governments targeting opponents based in this country. Thus these provisions may infringe the rights to freedom of expression and of association. Furthermore, there is concern that the right to fair trial may be infringed if people are charged on the basis of intelligence information provided by other governments or on the word of informants, if this information is then kept secret from the defendant through the use of public interest immunity certificates;

\$ Part VII of the Act, which provides for additional emergency powers applicable only in Northern Ireland, undermines the spirit of human rights protection in the Multi-Party Agreement of April 1998, in which the government committed itself "to make progress towards the objective of as early a return as possible to normal security arrangements in Northern Ireland, consistent with the level of threat". These provisions, which have resulted in unfair trials and other human rights violations, include the non-jury, single-judge trials; a lower standard of admissibility for confessions as a basis for prosecution and conviction than in ordinary courts; and general police and armed forces powers of arrest, entry, search and seizures without a warrant. The "juryless" system, combined with the lower standard for the admission of evidence allowed under emergency legislation, is incompatible with the right to a fair trial. Amnesty International has documented, since the early 1980s, concerns about unfair procedures in the single-judge, juryless "Diplock Courts" and has, more recently, called for them to be abolished. The organization believes that the continuing existence of a special court is normalising what is intended under national law to be an exceptional and temporary measure and is contrary to the spirit of international law;

\$ provisions allowing police officers to obtain court orders to force journalists to hand over to the police information in their possession which the police claim may be useful to their investigation. Amnesty International has been concerned in the past that the police have used similar emergency powers in order to intimidate journalists from pursuing certain lines of inquiry which may be embarrassing for the authorities; these cases have mainly involved investigative journalists who have refused to hand over information which was obtained in confidence from their sources or who have refused to reveal the name of their source. These journalists were exposing possible human rights violations by agents of the state and the attempts by the authorities to force journalists to reveal their sources or confidential information could have a chilling effect on freedom of expression.

Amnesty International is concerned that provisions in the Terrorism Act contravene UK obligations under international human rights law. Furthermore, many provisions are open to abuse by law enforcement officials, and the Act fails to provide adequate safeguards against such abuse.

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