

SILENCING THE LAMBS



Two items in the breakfast news trapped me between the bizarre and the surreal. Norwich, it appears, is the e-bay capital of Britain. More people in the city trade goods through the internet than anywhere else in the country. Many have turned buying and selling into a profitable business from home. So much for the personal touch in how we shop.

Earlier on, the BBC's 'Today' programme had told listeners that the MP for Norwich South - the Home Secretary - Charles Clarke, intended to rush anti-terrorist legislation through Parliament; legislation that would sweep away civil liberties from British and non-British citizens alike.

The powers the Home Secretary wishes to give himself include detaining people without trial, without charge, without access to lawyers. Most specifically new Control Orders would allow people to be detained in their own homes - under house arrest - for undefined periods, for undefined crimes. The Home Secretary is upstaging his constituents by wanting to take 'working from home' into surreal dimensions.

Actually, anyone detained under these powers would be unlikely to be able to do much e-bay trading. The Home Secretary could also ban the use of the phone, mobile phones and (yes) the internet. You couldn't even get e-bail for a 'virtual' walk around the park if the new laws go through.

Parliament is being asked to rush the whole Bill into law within a week. The urgency is that the existing legislation, allowing for detention without trial of foreign citizens, was ruled illegal. Technically, this was on the grounds that you cannot discriminate between the legal treatment of UK citizens and others. Many of us have also argued that the experience of those detained in Guantanamo Bay and Bellmarsh renders the whole concept of detention without trial untenable.

Not a single person I have come across denies that the world faces serious threats of terrorism. Societies have to work out how best to protect their citizens. What we are faced with from the Home Secretary, however, has nothing to do with this. It is the rapid descent into paranoia and irrationality that spins open democracies into closed tyrannies.

To get the measure through, Downing St needs to spread fear and paranoia amongst the parliamentary faithful. Normally, this is not difficult. The joke is that the Parliamentary Labour Party would vote for the slaughter of the first born if told it was an essential part of New Labour values. But many are having second thoughts. An election approaches. Some, at least, remember that it was on the basis of ministerial interpretations of dodgy intelligence that we were led into an illegal war on Iraq. Few can see the compelling case for giving ministers the same untrammelled rights to wage an illegal war on their own citizens.

Still, the Home Secretary and his acolytes stalk the corridors trailing dire, elliptical warnings for MPs to nibble on. "If you only knew what we know, you too would be afraid. We need these powers, so you can sleep safely at night". Osama bin Laden must have longed for such reactions.

I have no doubt about the terrorist threat; no sense of complacency about it. I just know that democracy has to be defended in quite different ways. What we are being asked to defend is the secret state, not the open society.

The Home Secretary has repeatedly been asked to change the law so that telephone and internet intercepts can be used in the prosecution of terrorists. He repeatedly refuses. A process widely accepted in prosecutions across Europe is somehow inadequate or inadmissible for Britain. So too is the notion that evidence should be considered by a judge rather than a politician.

We are told, privately, that the Home Secretary has looked at this option but rejected it. Judges, he believes, cannot be trusted. They tend to begin from an assumption of 'innocent until proven guilty'. This is obviously a dangerous subversive belief promulgated by the al Qaida section of the judiciary. It is also, however, an essential underpinning of the open society.

Terrorists have to be tracked down and tried. This is what the police and the Intelligence Services are there for. Perhaps what the open society has to acknowledge is the role of surveillance in defending this openness. But we have to presume that punishment follows a trial, and that trials have to be in the hands of the courts, not politicians.

Few of those released from Guantanamo Bay or Bellmarsh have been charged with terrorist offences. It throws up massive questions about the basis of detention itself. Yet the Home Secretary argues that it is this gap – between what he 'knows' and what the courts will convict on – that necessitates his sweeping abandonment of any framework of civil and legal rights.

In compensation, he offers entitlements to Judicial Reviews, or appeals to judges who can over-rule him. The burden of proof, however, is to be reversed. Judicial Reviews will only consider whether the legal process had been followed, not whether there was any substance to the allegations themselves. Appeals may consider whether the Home Secretary had acted unreasonably, but not whether he was right; and the accused will still have no right to see details of the charges against them.

Even a discussion of these proposals begins from the preposterous assumption that judicial rights should be exercised by politicians rather than courts. It massively deflects us from the more serious questions about global security and the terrorist threat.

Britain's former Ambassador to Uzbekistan has just warned that confessions extracted under torture in Uzbekistan, had surfaced as 'evidence' against others held by the USA and Britain under anti-terrorism laws. He cited, in particular, the confession of an old man, forced to watch his children being tortured. If this is the basis of what the Home Secretary 'knows' then he knows nothing. Go down this path and we become a nation swept along by the politics of modern McCarthyism. The enemy becomes ourselves, and confessions extracted under torture become acceptable and unchallengeable.

In the pursuit of real terrorists, some element of criminal investigation will inevitably rely on rumour

and speculation. Surveillance can probe, confirm or rebut such intelligence, to test its accuracy. 'Sting' operations draw this into the open so that arrest, prosecution and conviction follow. Today's debate, however, drifts dangerously in the opposite direction.

Up to the end of 2004, 701 people had been arrested and detained under Britain's post 9/11 anti-terrorism laws. Of these, 119 were eventually charged with terrorist offences, and 17 convicted. Not one of those convicted was connected to al Qaida. Most were involved in activities relating to Sikh nationalism or Irish nationalism.

So where is the compelling case for detention without trial in Britain that the rest of Europe seems to have over-looked? Where is the evidence that British citizens constitute such a threat to society that our own liberties (and rights to a trial under law) have to be surrendered?

Outside our borders there may indeed be evidence of threats to national security, but these, too, take us into difficult waters. For all the talk about George Bush's charm offensive in Europe there is a growing recognition of his administration's hand in the organised undermining of 'unfriendly' regimes in Eastern Europe and the Middle East. It follows the long history of such destabilisation tactics used in Africa, South East Asia and Central America. The charm offensive is just the velvet Stetson on the iron first-strike.

This may be the real terrorist threat we face. Creating societies that see themselves being undermined from outside (or overthrown by occupation) automatically generates movements that would do the same to us. If we are serious about the terrorist threat we have at least to address it in all its complexity, and respond coherently. Control orders and house arrest simply do not offer this starting point.

Fundamentally, one key test of an open, democratic society is its willingness to defend democratic rights of its citizens. Underpinning these is the citizen's right to a trial, on charges they are told about and defend themselves against. This is what the Home Secretary has to be told...and in no uncertain terms. The current Bill plunges everyone into the paranoia of a post-democratic society. It is a nonsense of a Bill, and should be consigned to the virtual realities of a Norwich e-bay. Better this than into the fabric and weave of British law where its greatest gift would be to bin Laden.