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**TERRORISM
AND CIVIL
LIBERTIES**

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DEBATING MATTERS
TOPIC
GUIDES

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MOTION:

**“PROTECTING THE
PUBLIC FROM
TERRORISM SHOULD
COME BEFORE
CIVIL LIBERTIES”**

CONTENTS

Introduction

Key terms

The The terrorism and civil liberties debate in context

Essential reading

Organisations

In the news

KEY TERMS

Civil liberties

INTRODUCTION

1 of 9

NOTES

1 The 9/11 attacks of 2001 led to a new era of a ‘war on terror’ declared by then US President George Bush and strongly supported by former UK Prime Minister Tony Blair. Since then the terrorist threat has remained high on the political agenda in many countries. Like the American government, the UK government has introduced a raft of measures and legislation to provide the police and other bodies with greater powers of surveillance and detention to combat the threat of terrorism. This, though, has led to significant and vocal concerns being raised about the erosion of civil liberties in both the US and UK. In his first week in office, President Barack Obama issued executive orders to close the prison at Guantánamo Bay and tighten interrogations policy, though how his administration will handle terrorism in practice remains to be seen.

In India, the terrorist attacks on Mumbai at the end of November 2008 had the world watching aghast, as 10 gunmen killed 173 people and set fire to the landmark Taj Mahal hotel. In the wake of the Mumbai attacks and numerous other terrorist attacks during 2008, the UPA government has been heavily criticised for being soft on terrorism and inept in its handling of security, with the issue being an important one in the recent Indian elections. How should we respond to the threat of terrorism today? Are civil liberties simply a fringe concern, distracting us from the dangers our societies face? Or are we overreacting in our response to terrorism? Do we risk undermining the very freedoms that we are seeking to defend? And should we be wary of governments invoking protection from terrorism as the basis on which to introduce measures that restrict individual freedoms?



The terrorist threat

According to the latest report on global terrorism by the US State Department, India was one of the most terrorism afflicted countries in the world during 2008, putting it in a similar position to 2007 when, with more than 1,000 deaths due to terrorism, it ranked fourth behind only Iraq, Afghanistan, and Pakistan [Ref: US State Department]. Although the Mumbai attacks of 26/11 sent shock waves across the world, and the death toll of just under 200 was high, numerous bomb attacks claimed many lives across India during 2008. The appearance of a group calling itself the Indian Mujahideen has raised fears that India may have a homegrown Islamic militant problem feeding off popular Muslim resentment about the purported injustices of the Hindu majority [Ref: US State Department]. In addition to the radical Islamist groups blamed for the bombings, a range of political organisations have carried out terrorist attacks across India, the Maoist Naxalites attack during India's ongoing election polling being only the most recent [Ref: Times of India].

Prior to the recent Real IRA shooting of two soldiers in Northern Ireland in March, no successful terrorist attacks have been carried out in Britain since the 7/7 London bombings of 2005, which claimed 52 lives. However, the thwarted Easter bomb plot in Liverpool earlier this year [Ref: The Times], the unsuccessful car bomb attacks in London and at Glasgow airport in June 2007, alongside high profile media coverage of the unsuccessful attempts to prosecute individuals accused of aiding the London suicide bombers [Ref: Guardian] and the controversial passage of the Counter-Terrorism Act 2008 through Parliament, have kept the issue of terrorism high on the public agenda. But defenders

of the governments' counter terrorism strategy have suggested that the lack of successful terror attacks is evidence that the balance struck between liberty and security by government is the right one.

What are civil liberties?

Civil liberties [Ref: Encarta] place limits on the power of the state over the individual and guarantee a private sphere of autonomy where individuals are free to act so long as they do not harm others. Freedom of speech and freedom of assembly, for example, protect the rights of citizens to criticise and protest against the government, and longstanding protections have sought to guarantee the right to a fair trial. At the centre of this debate is whether civil liberties are non-negotiable absolutes, or whether liberty must be continually balanced against the need to ensure security.

What anti-terrorism measures have been introduced?

After 9/11, terrorist suspects in the UK were held without trial at Belmarsh prison. In 2004 the Law Lords ruled [Ref: BBC News] that this breached human rights law, forcing the government to introduce new legislation in the form of the Prevention of Terrorism Act 2005 [Ref: Home Office]. Most controversially, this allowed the Home Secretary to impose control orders on terrorist suspects, placing them under effective house arrest without trial. In November 2005 the government suffered an embarrassing defeat over proposals to increase the time that suspects can be held without charge from 14 to 90 days [Ref: BBC News]. The final legislation, the Terrorism Act 2006, included a compromise figure of 28 days [Ref: Home Office]. The act also



introduced laws against indirect incitement and 'glorification' of terrorism and an offence of 'acts preparatory to terrorism'. In 2008 the government courted further controversy with the Counter-Terrorism Bill through which it again attempted to extend the period suspects can be held without charge, this time to 42 days. This provision of the Bill was heavily defeated in the House of Lords and was removed from the final legislation [Ref: Guardian].

When Manmohan Singh took control of the Indian parliament in 2004, one of his government's first actions was to repeal the Prevention of Terrorist Activities Act (POTA) of 2002 [Ref: Council on Foreign Relations] on the grounds that it was draconian, anti-Muslim and of limited utility. However, in response to the spate of bombing attacks throughout 2008 and the horrific attacks on Mumbai in November, the UPA government came under increasing attack for being 'soft on terror' and ineffectual in foiling terrorist activity. In response to this situation the Indian government proposed a new agency, the National Investigative Agency, to create national-level capability to investigate and potentially prosecute terrorist acts and has amended existing laws to strengthen the hands of security and law enforcement agencies in fighting terrorism.

Is an exaggerated sense of fear being used to undermine civil liberties?

In the UK, in the face of so many new anti-terror measures, increasingly vociferous concerns have been expressed in many quarters about the erosion of civil liberties. Fears have been raised that the law against 'glorifying terrorism' threatens

freedom of speech and blurs the distinction between words and deeds. Criticisms have also been launched at the government's determination to introduce ID cards [Ref: Guardian]; the massive increase in the use of police stop-and-search powers; and the increasing police harassment of innocent people taking photographs. Even Stella Rimington, the former head of MI5, has responded to the current situation warning that the fear of terrorism is being exploited by the government to erode civil liberties and risks creating a police state [Ref: Daily Telegraph]. But whilst some were heartened by the defeat of the government's proposals for 42 days detention, others warn that arguments about 28 or 42 days are by the by, both are draconian attacks on our liberties [Ref: The Times].

In India, post 26/11, the United Progressive Alliance government has been criticised for 'caving in to Right-wing pressures from the Bharatiya Janata Party to adopt a macho, national-chauvinist, 'to-hell-with-civil-liberties' stance to show that it has the will to fight terrorism' and for railroading through Parliament tough counter-terrorism laws without serious debate [Ref: rediff.com]. There are also longstanding concerns about police violence and human rights violations committed under the Armed Forces Special Powers Act and its far-reaching authority to use force (including the authority to kill), wide arrest powers and impediments to holding military personnel to account for human rights violations [Ref: oneworld.net]. In February of this year, the International Commission of Jurists produced a report condemning 'the damage done over the past seven years by excessive or abusive counter-terrorism measures in a wide range of countries around the world' by governments 'ignoring the lessons of history'



and allowing 'themselves to be rushed into hasty responses to terrorism that have undermined cherished values and violated human rights' [Ref: ICJ].

Are the dangers to civil liberties being overplayed?

The UK government argues it's wrong to talk about 'creeping authoritarianism': freedom requires security and the most important civil liberty is freedom from terrorism. Supporters of the government think that civil libertarians fail to appreciate the new threats we face. For example, the claim by British police to have prevented 'mass murder on an unprecedented scale' [Ref: Guardian] by uncovering a plot to blow up UK flights to the US in 2006 is seen by some as a vindication of government policy. Home Secretary Jacqui Smith defends the UK government's approach arguing that 'people's fundamental civil liberty is that they are kept safe from terrorism and serious crime' and data from the British Social Attitudes survey indicates public support for the current level of emphasis on security even if it means giving up some civil liberties [Ref: Guardian]. Others, however, have linked the 'War on Terror' to a state of moral confusion in the West, where a heightened sense of vulnerability makes people feel easily terrorized [Ref:spiked], and make the case for greater resilience to undermine the impact of terrorism on society [Ref:Times Higher Education].



ESSENTIAL READING

5 of 9

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'I know where balance lies with civil liberties and security'

Jacqui Smith *Daily Telegraph* 27 March 2009

Detox can't cure jihadist urge to kill

Janet Albrechtsen *The Australian* 24 March 2009

The Indolent Giant - India must modernize its intelligence gathering machinery

Swapan Dasgupta *Calcutta Telegraph* 9 January 2009

Lessons to learn from Mumbai

Jim Wallace *Canberra Times* 12 December 2008

42-day detention; a fair solution

Gordon Brown *The Times* 2 June 2008

Huge majority say civil liberty curbs a 'price worth paying' to fight terror

John Carvel and Lucy Ward *Guardian* 24 January 2007

The first step towards defeating the terrorists: stop blaming ourselves

G Baker *The Times* 11 August 2006

Learning to be tough

Ajai Sahni *India Today*

Against

Slash 42 days to 24 hours

Brendan O'Neill *spiked* 17 June 2009

Terrorists may use Google Earth, but fear is no reason to ban it

Bruce Schneier *Guardian* 29 January 2009

The 42 day victory hasn't won the war

Henry Porter *Guardian* 19 October 2008

Creating a climate of fear

Sidharth Bhatia *DNA India* 28 September 2008

Absence of justice triggering insurgency in Manipur
oneworld.net 16 September 2008

Britain's terror laws have left me and my family shattered

Hicham Yezza *Guardian* 18 August 2008

42-day detention: the threat to our liberty

John Major *The Times* 6 June 2008

In depth

Country Reports on Terrorism 2008: South and Central Asia
US State Department

Council on Foreign Relations: Terrorism
Council on Foreign Relations

Backgrounders

Explainer: Terrorism legislation
Guardian



ORGANISATIONS

6 of 9

NOTES

Campaign against Criminalising Communities (CAMPACC)

Citizens Speak Out Against TADA, POTA and AFSPA

Convention on Modern Liberty

India: People's Union for Civil Liberties

Liberty

Statewatch



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Manchester launch for ID cards
BBC News 6 May 2009

Sonia talks tough against terrorism
Hindustan Times 4 May 2009

Manmohan questions BJP's stand on terrorism
Times of India 4 May 2009

Indian counter-terrorism efforts outdated, says US
Times of India 1 May 2009

Surveillance Effort Draws Civil Liberties Concern
New York Times 29 April 2009

Trio cleared over 7/7 attacks
BBC News 28 April 2009

Ex-defence chief says attack on liberties is bowing to terrorists
Guardian 24 April 2009

Months of planning went into Naxal attacks
Times of India 17 April 2009

Student visa scam allowing terror suspects into Britain
The Times 14 April 2009

Revealed: Terror suspects in 'Easter bomb plot' worked at Manchester airport
Daily Mail 11 April 2009

Losing the 'war on terror'
Los Angeles Times 8 April 2009

Rising threat of dirty bomb attack on UK, says Jacqui Smith
The Times 25 March 2009

Now 'Big Brother' targets Facebook
Independent 25 March 2009

60,000-strong 'army of shopkeepers' to fight terrorist threat
Scotsman 23 March 2009

Terror forces India to abandon plans to host cricket contest
Independent 23 March 2009

'Real IRA claims' murder of soldiers in Northern Ireland
Guardian 8 March 2009

'We are now a prize target for extremists,' say Sri Lankan players
Guardian 5 March 2009

Spy chief: We risk a police state
Daily Telegraph 17 February 2009

Is it a crime to take pictures?
BBC News 16 February 2009

Obama Issues Directive to Shut Down Guantánamo
New York Times 22 January 2009

Toughening the law
India Today 9 January 2009

Terrorists wanted to destroy symbol of Indian splendour
The Times 27 December 2008

Glasgow airport bomber was being tracked by MI5
Guardian 17 December 2008

Anti-Terror Bills Advance in India
Washington Post 17 December 2008

Mumbai attacks: How Indian-born Islamic militants are trained in Pakistan
Daily Telegraph 15 December 2008

7 of 9

NOTES



IN THE NEWS CONTINUED...

8 of 9

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Anger as Indian police who tortured terror suspects escape action

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National security threats could impair India's growth

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India wonders how deep "Hindu terrorism" goes

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ISF-Indian Mujahideen claims responsibility for Assam blasts

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Multiple bombings kill scores, rattling northeastern India

Liam Stack *Christian Science Monitor* 30 October 2008

Peers throw out 42-day detention

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Indian Mujahideen activist Arif arrested

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Arrested terrorists confess role in Delhi blasts

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2 suspected terrorists shot dead in New Delhi

rediff India Abroad 19 September 2008

Delhi cops to grill Ahmedabad blasts suspect

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Delhi shopping areas hit by bombs

BBC News 13 September 2008

17 Blasts rock Ahmedabad

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Serial blasts rattle Bangalore; woman killed

K.V. Subramanya and Sharath S. Srivatsa *The Hindu* 26 July 2008

David Davis has struck a fine blow for the cause of civil liberties

Independent 12 July 2008

60 killed, 150 hurt in Jaipur blasts: CM

rediff India Abroad 13 May 2008

Bombings rock Indian tourist city

BBC News 13 May 2008



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- I am interested in sponsoring/supporting Debating Matters
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(if applicable)

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THINKING DEEPLY
ABOUT...SOCIAL
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