# Terrorism v. Human Rights: where do you draw the line?

In recent months, the language of rights has been the language of compromise. The inalienability of our fundamental liberties has been tempered by the acknowledgement of a growing threat to national security. The question that has been thrust at us by the London bombings is one of the precise degree of interference with human rights that is tolerable in the name of averting future attack. The answer that this essay shall present is that allusion to the spectre of terrorism in order to justify the restriction of liberty necessarily legitimises – and, in so doing, feeds – the extremist's cause. If a line is to be drawn, it must be drawn very close indeed to our paramount concern: that is, to human rights.

We naturally shy from two extremes. To pretend that we face no threat fails entirely to alleviate the real risk of future attacks. Conversely, to tighten national security to such a degree that 'police state' becomes an apt description offends the rule of law and undermines the principles at the heart of a liberal democracy. Yet it does not follow that we must immediately seek shelter in some middle ground, for the first question we must confront is a fundamental one: how can interference with rights be justified at all in the face of terrorism?

Human rights are not absolute. This is an uncontroversial proposition: we accept the curtailment of certain freedoms every day. The right to free expression, for example, is restrained by the laws of defamation and incitement. It is therefore very difficult to sustain an argument along the lines that legislative interference with rights is inherently inappropriate. Case law shows myriad situations where the interests of the

public outweigh the concerns of the individual, *Handyside v. UK* (1976) providing but one example.

Perhaps the threat of terrorism similarly demands that we give precedence to the public interest. Britain is at war with those who would perpetrate violence in the name of a political, religious or ethical cause. In times of war it is necessary to make sacrifices for the sake of the nation: throughout two especially vicious conflicts in the twentieth century, the British people convincingly demonstrated their ability to endure profound hardship for the greater good. What is demanded of the present generation is comparable, though its sacrifices must manifest themselves not as material forfeits but as restrictions of liberty.

This argument has a patriotic ring, but at its heart it is flawed. We should reject its very premise: to declare that Britain is at war is to grant legitimacy to terrorism. By accepting that we are at war, we perceive our attackers as a common enemy challenging the national interest. What are essentially disparate crimes coalesce into a single mass of attacks against Britain: organisations with dissimilar aims are united against the state. In consequence, the actions of those organisations cease to be wrongs committed from within and become attacks from the outside: there is a sense in which they appear to transcend, rather than simply breach, national law. This is deeply objectionable in principle and brings a number of consequential problems.

First, it elevates the terrorist from criminal to warrior. Those recruited to extremist organisations – frequently, vulnerable young people still exploring their identity – may be wooed by romantic notions of martyrdom. Let it be made absolutely clear that

he who harms an innocent person is not a soldier fighting a noble cause but a murderer. Let the decision to perpetrate violence be influenced by this: by a clear understanding that there is never justification for the killing of civilians.

Second, terrorism breathes the oxygen of publicity. The phrase is trite but true. The purpose of a terrorist act is to bring a cause to the fore and (implicitly) to threaten further bloodshed if a particular solution is not achieved. These goals can be thwarted by neglect. The arguments for Irish republicanism or for the withdrawal of troops from Iraq, though they merit debate in a rational context, must not be raised by violence. The validity of an extremist's cause must be neither commended nor ridiculed in the aftermath of an atrocity; the connection between the act of aggression and its motivation must, as far as possible, be set aside. The country must not halt to mourn its victims – and in so doing let the terrorist win its attention – but must carry its grief privately. This, in a sense, is the sacrifice demanded of the present generation.

*Prima facie* this leaves us at the very extreme disparaged earlier: with a feeble hope that the threat will disappear on its own. However, it is suggested not that we should ignore the present danger but that we should consider carefully our reaction to it. The steps towards security that Britain takes must not be the steps of a country at war, but the steps of a region suffering a particularly abhorrent wave of crime. Intelligence must be garnered, investigations accelerated and a more visible police presence established. Members of the public may be advised to exercise sensible caution. What is exceptionable is such interference with rights as can only be justified with reference to a premise that is fundamentally unacceptable.

Where, then, is the line to be drawn between the prevention of terrorism and the protection of human rights? It is submitted that our rights must reign supreme. As soon as the threat of terrorism is employed to justify an infringement of liberty, extremism is granted greater legitimacy, unity and potency. These it must be denied. This ostensibly passive solution may be a difficult one to accept since the natural human response to the perpetration of atrocious violence is coloured by emotion. But this is a dangerous basis on which to interfere with rights. "We're angry about extremists," stated the Prime Minister, "we're angry about what they're doing to our country." He would do well to remember the adage of Benjamin Franklin: "what is begun in anger ends in shame."