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A LOOK AHEAD TO HUMAN RIGHTS AND CIVIL LIBERTIES IN THE NEXT SESSION

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In case there were any doubts before, the Labour Party conference has dispelled them. The Prime Minister and Home Secretary both used their speeches to make clear that law and order, security and anti-terrorism are once again to be at the forefront of the coming session.

Dr. Reid stressed the importance of party consensus, particularly when dealing with issues of national security. Unfortunately, his definition of consensus seemed to depend upon agreement with whatever the government was proposing. In recent sessions of parliament there have frequently been disagreements over home affairs policy between Government and opposition parties. Everyone agrees that terrorism and crime need to be addressed. However, the Government has faced steady criticism for passing laws that excessively impact on human rights and civil liberties and, ultimately, are counterproductive.

The coming session may produce more of the same. Significant anti-terrorism legislation looks likely, possibly initially as a draft bill. This could cover a range of issues. There has been major terrorism legislation in 2000, 2001, 2005 and 2006. This has created a complex and sometimes confusing array of laws and powers. The former Home Secretary Charles Clarke indicated that new legislation might be needed to consolidate what has gone before. Coupled with this is the review of the definition of terrorism. When

the Terrorism Act 2006 was being debated as a bill it became apparent that there were significant concerns over the way in which some of the new offences, in particular the crime of 'encouragement of terrorism' would be interpreted. The existing definition, contained in Section 1 Terrorism Act 2000, when coupled with the new offence, meant that those calling for the overthrow of the regime in Zimbabwe, or expressing solidarity with Palestinians might be criminalised. Because of this the Independent Reviewer of Terrorism, Lord Carlile, has carried out a review of the definition to see if it requires amendment.

Pre charge detention of up to 90 days may also be revisited. A Labour backbench rebellion limited the last attempt to extend pre charge detention to a compromise of 28 days. Since then senior government figures have said that further extension is necessary. Conservative, Liberal Democrats and many backbench Labour MPs who last time expressed concerns that this was excessive and would alienate communities are likely to offer further opposition.

Early in the summer 'human rights' were under attack as being responsible for everything from the early release of foreign prisoners to giving suspects on rooftops fried chicken. The dust has settled and some perspective regained. However, the government is still unhappy with its human rights obligation not to return people to countries where they are likely to face torture or death. New terrorism legislation might provide a vehicle for an attempt to override this obligation.

The Home Secretary's conference speech also expressed concerns at levels of unlawful immigration and abuse of asylum processes. These may well be subjected to legislation over the next session although no further details have yet been given.

A new police powers bill is also anticipated. Much has been made of the Government's 'Respect' agenda and the perceived need to overhaul the criminal justice system. Again, this is an issue that has divided the main parties. The Government has described the criminal justice system as 'Dickensian' and in need of urgent reform. Opposition parties have been concerned that these reforms could undermine fair trial and due process protections. Similarly, possible extensions of summary punishment powers for police

have been conversely described as either crucial for police reform or a threat to the very nature of policing.

A Home Office consultation considering new powers against serious and organised crime may lead to legislation next year. It proposes a range of measures including increased information across public and private sectors and considers the possibility of a new type of civil order, similar to an ASBO, for use against organised crime.

The Corporate Manslaughter and Corporate Homicide Bill was published shortly before summer recess and will be due for second reading shortly after parliament returns. The Bill creates a new offence, committed by an organisation, when its gross negligence causes a person's death. There are however, a number of activities specifically exempted from the scope of the bill. These will cover many functions typically carried out by the police, the probation services and the military.

Home affairs have proved to be a combative arena in recent years. The last session of Parliament saw the only two defeats suffered by the Labour Government in the House of Commons on Home Office Bills. There is no reason to believe this session will be any different.

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