

CAJ's Submission no. S239L

CAJ's response to the

Home Office, Security and Counter-Terrorism on Working Together to Protect Crowded Places

July 2009

What is the CAJ?

The Committee on the Administration of Justice (CAJ) was established in 1981 and is an independent non-governmental organisation affiliated to the International Federation of Human Rights. CAJ takes no position on the constitutional status of Northern Ireland and is firmly opposed to the use of violence for political ends. Its membership is drawn from across the community.

The Committee seeks to ensure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities in international human rights law. The CAJ works closely with other domestic and international human rights groups such as Amnesty International, Human Rights First (formerly the Lawyers Committee for Human Rights) and Human Rights Watch and makes regular submissions to a number of United Nations and European bodies established to protect human rights.

CAJ's activities include - publishing reports, conducting research, holding conferences, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include policing, emergency laws and the criminal justice system, equality and advocacy for a Bill of Rights.

CAJ however would not be in a position to do any of this work, without the financial help of its funders, individual donors and charitable trusts (since CAJ does not take government funding). We would like to take this opportunity to thank Atlantic Philanthropies, Barrow Cadbury Trust, Hilda Mullen Foundation, Joseph Rowntree Charitable Trust, Oak Foundation and UNISON.

The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award and the Council of Europe Human Rights Prize.

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Office for Security and Counter-terrorism
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10 July 2009

Dear Lord West,

Re: Working Together to Protect Crowded Places

Thank you for your letter of 20 April 2009 inviting the Committee on the Administration of Justice (CAJ) to present our views on the **Working Together to Protect Crowded Places** document. As you will know, CAJ is an independent non-governmental human rights organisation that was established in 1981. CAJ's activities include - publishing reports, conducting research, holding conferences, monitoring, campaigning locally and internationally, individual casework and providing legal advice within the framework of Northern Ireland. Its areas of work are extensive and include policing, emergency laws, criminal justice, equality and the protection of rights. The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award and the Council of Europe Human Rights Prize.

The consultation document states that, 'the Government wants to ensure that the right levels of protective security are in place that are proportionate to the risk so that if a terrorist attack does take place its effects can be lessened.' As is acknowledged in the consultation document, it is vital that the measures taken are **proportionate to the risk** so that individuals' rights are not violated. As such it is important to bear in mind the United Nations *Global Counter-terrorism Strategy* which states that 'the promotion and protection of human rights for all and the rule of law is essential to all components of the Strategy, recognising that effective counter-terrorism measures and the promotion of human rights are not conflicting goals, but complementary and mutually reinforcing'.¹

¹ United Nations *Global Counter-Terrorism Strategy* (General Assembly resolution 60/288, annex).

It is also necessary to consider the possible unfavourable impact that security procedures, in practice, may have on individuals or communities. CAJ is specifically concerned about the possible adverse gender and race implications that implementation of an anti-terrorist campaign may have. **As such monitoring and evaluation mechanisms need to be clearly built in to such a strategy.** Given the potential adverse impact to the minority and immigrant populations that the proposed measures might have, the European Commission against Racism and Intolerance's *Recommendation N° 8 on Combating Racism while Fighting Terrorism* and to the *International Convention on the Elimination of All Forms of Racial Discrimination* should be considered when formulating counter-terrorism policies and strategies.

Several examples of counter-terrorist protective security 'good practice' listed in 'Chapter 6: What Works in Reducing Vulnerabilities' suggest that **the proposals should be reviewed in light of possible discriminatory repercussion.** It is crucial that the implementation of the measures noted below, for example, does not amount to **ethnic or racial profiling**:

- '...the speed of approaching vehicles is slowed to provide time to assess them and their occupants' (para. 5)
- '...random searches of spectators who arrive without bags/rucksacks' (para. 9)
- '...research the type of visitor that is expected at the venue...' (para. 15)

To this end, we suggest that the Home Office refer to the report by the Open Society Justice Initiative entitled *Addressing Ethnic Profiling by Police*, which demonstrates that racial and ethnic profiling is 'counterproductive'. The European Parliament Civil Liberties draft report (and subsequent amendments) on the issue of racial and ethnic profiling in counter-terrorism efforts (among other aspects of law enforcement and policing) should also be considered, as should the European Commission against Racism and Intolerance *Recommendation N° 11 on Combating Racism and Racial Discrimination in Policing*. Counter-terrorism initiatives should not only offer safeguards for protecting rights and freedoms, but should also consider the underlying causes of terrorism in order to effectively and holistically combat terrorist activities and should offer 'measures to address the conditions conducive to the spread of terrorism'.²

Moreover, although an impact assessment of the proposal was done within the context of Britain, an **Equality Impact Assessment** would be needed given the specific framework and statutory requirements within Northern Ireland, which would surely flag the discriminatory implications which could arise from the implementation of the proposals.

² Ibid.

Although policing and justice issues have not yet been devolved in Northern Ireland it would seem that other representatives (in addition to the PSNI and CPNI) should be involved in the local CONTEST group which is chaired by the Northern Ireland Office. **Active ownership needs to be encouraged in local areas and greater public awareness of counter-terrorism initiatives would contribute to the programme's success.**

We would be particularly concerned that the local district councils in Northern Ireland are perhaps not equipped with the expertise and expenditure to perform the required risk assessments and in rural areas of Northern Ireland the threat of international terrorism may not be placed highly on the working agenda. **As a result, adequate training in relation to dealing with terrorist threats needs to be implemented across all of Northern Ireland.**

Additionally, although not as substantively important, it is worth considering that the consultation document itself is not particularly user friendly.

- For ease of reference, a list of acronyms would not have gone amiss.
- Document states that ‘the threat level to the UK is currently assessed to be “severe” meaning that a terrorist attack is highly likely’ (Introduction, paragraph 7). This terminology does not appear to be inline with the *Risk Severity Scale* (annex A, paragraph 15) which is delineated as High; Medium High; Medium; and Low. In fact, the document also uses inconsistent terminology in the ‘Scope of the Consultation’ at the beginning of the document which describes ‘severe’ as ‘the second highest level of threat and means that an attack, which could occur without warning, is highly likely’.

Thank you for permitting CAJ to submit our views and we look forward to seeing the Home Office analysis of the consultation submissions.

Yours Sincerely,

Jacqueline Monahan
Criminal Justice Programme Officer