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**WAS IT  
LIKE THIS  
FOR THE  
IRISH?**

*Human rights lawyer  
Gareth Peirce examines  
the treatment of Muslims  
in Britain since 9/11*

## ABOUT THE AUTHOR



**Gareth Peirce** is noted for taking on controversial cases, including high profile human rights issues. Her clients include the Birmingham Six, the Tipton Three, the Guildford Four, former MI5 operative David Shayler, Abu Qatada (who has been called 'Europe's Al-Qaeda Ambassador'), Judith Ward, Mouloud Sihali, the family of Jean Charles de Menezes, Mozzam Begg and Bisher Amin Khalil al-Rawi, a detainee at the

Guantanamo Bay detention camp.

In the mid 1970's Gareth Peirce supported specific campaigns for reform of laws and police procedures that permitted the wrongful prosecution and conviction of persons solely on identification evidence. In the 1960s, she worked as a journalist in the United States, following the campaign of Martin Luther King; when she returned to Britain in the 1970s, she took a postgraduate law degree at the London School of Economics. She joined the firm of the radical solicitor Benedict Birnberg as a trainee, and was admitted to the Roll of Solicitors on December 15, 1978.

She was appointed CBE in 1999, but later she returned its insignia. She is currently a senior partner at Birnberg Peirce and Partners, and lives in Kentish Town, north London. In the film *In the Name of the Father*, Peirce was portrayed by Emma Thompson (though Thompson's character was actually a composite of several lawyers who worked on the case, including Peirce).

Peirce was one of the initial eight people inducted in March 2007 into *Justice Denied* magazine's Hall of Honor, for her lifetime achievement in aiding the wrongly convicted.

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# WAS IT LIKE THIS FOR THE IRISH?

GARETH PIERCE

**T**he history of thirty years of conflict in Northern Ireland, as it is being written today, might give the impression of a steady progression towards an inevitable and just conclusion. The new suspect community in this country, Muslims, want to know whether their experience today can be compared with that of the Irish in the last third of the 20th century. It is dangerously misleading to assert that it was the conflict in Northern Ireland which produced the many terrible wrongs in the country's recent history: it was injustice that created and fuelled the conflict. Before Bloody Sunday, when British soldiers shot and killed 13 unarmed Catholic demonstrators who were marching to demand not a united Ireland but equal rights in employment, education and housing (as well as an end to internment), the IRA was a diminished organisation, unable to recruit. After Bloody Sunday volunteers from every part of Ireland and every background came forward. Over the years of the conflict, every lawless action on the part of the British state provoked a similar reaction: internment, 'shoot to kill', the use of torture (hooding, extreme stress positions, mock executions), brutally obtained false confessions and fabricated evidence. This was regis-

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tered by the community most affected, but the British public, in whose name these actions were taken, remained ignorant: that the state was seen to be combating terrorism sufficed. Central to the anger and despair that fuelled the conflict was the realisation that the British courts offered neither protection nor justice. The Widgery Report into Bloody Sunday, which was carried out by the lord chief justice, absolved the British army and backed its false account of 13 murders, ensuring that Irish nationalists would see the legal system as being aligned against them.

We should keep all this in mind as we look at the experiences of our new suspect community. Just as Irish men and women, wherever they lived, knew every detail of each injustice as if it had been done to them, long before British men and women were even aware that entire Irish families had been wrongly imprisoned in their country for decades, so Muslim men and women here and across the world are registering the ill-treatment of their community here, and recognising, too, the analogies with the experiences of the Irish.

As good a place to start as any is 19 December 2001. On this date a dozen

men, all foreign nationals, were interned in this country. Recognising the connotations of the term ‘internment’, discredited and abandoned in Northern Ireland, the government insisted this was not equivalent to arbitrary detention without trial, a practice forbidden by the European Convention on Human Rights except in extreme emergencies, because each man was free to leave. The premise on which they were detained was that the United Kingdom could not in fact send them back to their countries of origin, since it was accepted that they would be at the very least a target for torture, if they were not killed on arrival.

December 2001 did not in fact mark the beginning of Britain’s official interest in men described as ‘Islamists’, since some from Egypt, Jordan, Tunisia, Libya and Algeria who were in this country as refugees had long been the subjects of complaints to the UK by the regimes they had fled. After 9/11, however, Tony Blair professed a desire to stand ‘shoulder to shoulder’ with President Bush. It would have been difficult to match Bush’s executive onslaught on constitutional rights in the US, by means of the Patriot Act; the designation of ‘enemy combatants’ and their detention by presidential order; the abolition of habeas corpus; the subjection of detainees to torture in Afghanistan and Guantánamo or their unofficial outsourcing via rendition flights to countries specialising in even more grotesque interrogative practices, many of them those same regimes which had pressured the UK to take action against their own dissidents. Claiming that a parallel emergency faced Britain, Blair bulldozed through Parliament a new brand of internment. This allowed for the indefinite detention without trial of foreign

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nationals, the ‘evidence’ to be heard in secret with the detainee’s lawyer not permitted to see the evidence against him and an auxiliary lawyer appointed by the attorney general who, having seen it, was not allowed to see the detainee. The most useful device of the executive is its ability to claim that secrecy is necessary for national security. Each of the dozen men snatched from his home on 17 December 2001, and delivered to HMP Belmarsh, expressed astonishment: first at finding himself the object of the much trumpeted legislation and, second, at discovering who his fellow detainees were. Each asked why, if he was suspected of activity linked to terrorism, he had never been questioned by police or the Security Services before it was decided that he was a ‘risk to national security’. The sole activity which some speculated might be the reason for their detention was their attempt to support Chechens when in 1999 their country was the subject of a second brutal invasion by Russia. But thousands of others had acted similarly, and such support was not unlawful.

Each man was told that, for a reason that could not be disclosed, he was in some unspecified way thought to be linked to unspecified persons or organisations, in turn linked to al-Qaida, which was then depicted by now discredited ‘al-Qaida experts’ as taking the form of the hierarchical pyramid of classic Western military systems. At the base of the pyramid were those who had been interned, almost all of whom said that they had never heard of al-Qaida before 11 September 2001. All of this echoed other wrongful detentions, like that of John Walker in 1974, when the West Midlands police coerced an innocent Irishman into confessing that he was an IRA ‘brigadier’, ignorant of the fact that such a

title existed only in the British army. This confession was nevertheless swallowed whole. Walker was one of the Birmingham Six, all of whom spent 16 years in jail before the assertions of their prosecutors were finally discredited.

There should have been no need for the Muslim community to anticipate a similar wait, since just before Christmas 2005, three and a half years after internment had been rushed through Parliament, the House of Lords gave its judgment on that legislation in what should have stood as the most important legacy of British law in recent history. The law lords swept aside what had been said by the attorney general to constitute a just system necessary for national security. Focusing on the government's disproportionate response to a claimed emergency, and its indefinite detention only of foreign nationals, the language of the law lords was heroic in its strength. There was a sense that the ruling's importance went far beyond its importance to the 12 detainees, eight of whom had now been driven into mental illness, four of those into florid psychosis, and had been transferred by the home secretary from Belmarsh to Broadmoor.

Since the judgment, however, signalling as it did that the government had impermissibly crossed the legal barriers guaranteed by domestic and international treaties, it has become clear that the government intends to ignore the spirit if not the letter of the decision. It has also become clear that the government had, and continues to have, a wider strategy of which internment legislation was only one part. Little by little, ripples of information have found their way to the surface, sometimes confirmed by the government,

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sometimes denied. While the world knows and can assess for itself what chains of reaction were created by the wars in Iraq and Afghanistan and by the enormity of injustice suffered by the Palestinians, the cumulative effect of many other policies deserves analysis. It emerged for instance that in late 2001 the UK had begun to tip off other governments, for the ultimate benefit of the US, of the whereabouts of British nationals and British residents. Moazzem Begg, who was living with his wife and children in Pakistan, was kidnapped in January 2002; within hours he was in the hands of Americans (with a British Intelligence agent to hand), and transported without any semblance of legality to Bagram airbase in Afghanistan, by this time an interrogation camp where torture was practised. After a year during which he witnessed the murders of two fellow detainees, he was moved to Guantánamo Bay. Until he finally returned to this country in 2005, nothing was known of the presence at his abduction of a British agent. Instead, for the whole of that year in Bagram, the Foreign and Commonwealth Office repeatedly told his father that they had no information about Begg and that the Americans would tell them nothing.

Seemingly unrelated areas of injustice, we now learn, have all along been connected. Two British residents, acknowledged to have been seized in 2002 in the Gambia and subjected to rendition by the US as a direct result of information provided by British Intelligence, were for the next five years subjected to interrogation (including torture) primarily to obtain information about a man interned in this country. One of those interned in December 2001, a Palestinian, trying to guess the reason for his detention the next year, told

his lawyers that he had raised money for many years to build wells and schools and to provide food in Afghanistan. One of those wells, he said, bore the name of the son of its donor, Moazzem Begg. The Palestinian's lawyers, knowing by now that Begg was in Guantánamo, started to think the unthinkable. During hearings at the Special Immigration Appeals Commission, at which these cases are heard, there is a brief opportunity for the detainee's lawyer to question an anonymous Security Service witness concealed behind a curtain, before the lawyer is asked to leave the court so it can continue its consideration of secret evidence. The witness was asked: 'Would you use evidence that was obtained by torture?' The unhesitating answer was: 'Yes.' The only issue that might arise, the agent added, would be the weight such evidence should be given. Three years after this, in December 2005, the House of Lords affirmed the principle that no English court can ever admit evidence derived from torture, no matter how strong the claimed justification or emergency. The message for the government was again unequivocal: the principles of legal obligation must be adhered to in all circumstances.

Despite the strength and intended permanence of these two rulings by the House of Lords, however, many Muslims have come to see any protection from the courts as constituting only a temporary impediment before the government starts to implement a new method of avoidance. After three months of prevarication, the internees were released on bail under stringent conditions, but the Home Office was simultaneously pushing yet more emergency legislation through Parliament, this time to introduce Control Orders which

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placed a substantial number of restrictions on the now released detainees. Any breach would constitute a criminal offence carrying a penalty of up to five years' imprisonment. Three of the detainees, including the Palestinian, were pitch-forked out of Broadmoor during the night and driven by police to empty flats. One of them, a man without arms, was left alone and terrified, unable to leave the flat or to contact anyone without committing a criminal offence, subject to a curfew and allowed no visitors unless approved in advance by the Home Office. Two of these three detainees were immediately readmitted to psychiatric hospitals; neither of them had been hospitalised before being interned. These men had already been found to have patterns of psychological damage explicable only as a result of their indefinite detention.

Other former detainees, particularly those with wives and children, soon began to recognise the disturbing effects of the Control Orders. The electronic tag they had to wear, which registered every entry and exit from the house, was only one element of a family's altered existence; a voice recognition system was supposed to confirm the detainee's presence at home during curfew, but the machines, of US manufacture, often failed to recognise the accents of Arabic speakers, with the result that uniformed police officers would enter the house in significant numbers at all times of the day and night. No visitor would come near their homes because to enter required first to be vetted by the Home Office. Children could do no schoolwork that involved the internet, the use of which was forbidden. Families had endlessly to involve lawyers in the most trivial matters: to obtain permission to go into

the garden; to attend a parent-teacher meeting; to arrange for a plumber to enter the house.

What happened to these men? Are they still, three years later, trying to live normal lives despite the restrictions? The answer came only five months after their release. On 7 July 2005 bombs exploded in London. Within days it was known that the bombings had been carried out by young men born and bred in Yorkshire. On 5 August Blair announced that 'the rules of the game have changed' and that diplomatic agreements were being made to deport the same small group of detainees to their countries of origin, although the government knew that the use of torture was still routine in these countries. It was said that an assurance would be obtained that the men themselves would not be tortured after they were returned, and that an independent monitoring organisation in each country would guarantee that this was being adhered to. Despite such assurances, these deportations flew in the face of two important legal commitments to which this country is obliged to adhere: one, to send no person to a country where there is a risk to him of torture, the central premise of the Refugee Convention, and, two, to achieve the eradication of torture (and not by negotiating a single exception, while offering no protest to a regime's use of torture on others).

On 11 August the Algerian and Jordanian former internees were again arrested. There were soon more arrests, this time of two Algerians who had been acquitted unanimously in a trial at the Old Bailey in April 2005 of involvement in a conspiracy to use ricin, an allegation that had been seized on at the time of their original arrest by Colin Powell in his attempt to justify

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the invasion of Iraq to the UN. (One juror described how for him a moment of truth came early in the trial, when a witness from Porton Down nervously drank three containers of water while in the witness box seeking to explain why an early lab report said to have been conveyed to the police and confirming that there was no trace of ricin, had, curiously, never reached the Cabinet Office.)

Those detainees who remain in the United Kingdom are still in prison or under extreme bail restrictions. One has been returned twice to Broadmoor from prison before being bailed to a psychiatric hospital. There are now two more Jordanian detainees and several Algerians, while Libya rapidly became the third state to promise safe re-entry to its dissident citizens. As for the promised monitoring organisations, one was purpose-built in Jordan in 2005, a husband and wife team bankrolled by the UK, which by the summer of 2007 (when two thousand inmates in one Jordanian prison were beaten the day after the first ever visit of an NGO, Human Rights Watch, to whose representatives they had complained of torture), had still never visited a prison. In Libya, the independent monitor agreed to by Britain is the Ghadafi Foundation, headed by Colonel Ghadafi's son.

Algeria never signed a memorandum of understanding with Britain, nor did it appoint an independent monitor, although both safeguards were said by Blair to be non-negotiable precursors to deportation. Constant prevarication was ascribed initially to the Algerian president's ill-health, and then to meetings being postponed, until finally the detainees' appeals against deportation could be delayed no longer. SIAC, hearing evidence in large part in se-

cret, found that Algeria's 'body politic' appeared to have moved to 'a state of lesser danger' for perceived dissidents, that a limited amnesty was on offer, so that the refugees would not be put on trial, and thus that it was safe to deport them. Several Algerians in prison here or under severe restrictions decided to return. As they said in a letter to a British newspaper: 'We are choosing the alternative of a quick death in Algeria to a slow death here.'

In making this decision, two of the Algerians, Benaissa Taleb and Rida Dendani, dramatically miscalculated. Astonishingly, SIAC allows secret evidence to be given even on the issue of an individual's future safety. Had the men properly understood the reality (or more important the fragility) of diplomatic arrangements, perhaps neither would have decided to return. Each was told that an amnesty applied in Algeria which he should sign even though he had committed no offence; indeed special arrangements were made by the Home Office for each man to have bail to attend the Algerian Embassy in London for this purpose. Each believed that he would not be detained more than a few hours on arrival and that, as the British diplomat organising these deportations had promised SIAC, there was no risk that he would be held by the infamous DRS secret police. In fact they were both interrogated for 12 days during which they were threatened and subjected to serious physical ill-treatment. They were then charged, tried and some months later convicted, on the basis of the 'confessions' forced from them during this time. Dendani was sentenced to eight years' imprisonment, Taleb to three.

At the heart of Britain's reassurances as to their safety had been the confidence that the Algerians would place too high a

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value on their relationship with Britain to risk its disapproval. No British official has ever attempted to visit either man in prison, despite reports that both continue to be held in conditions that violate every international norm; no official attended their trials and the fact that visa applications by the men's UK lawyers have been ignored for a year by the Algerian authorities, despite repeated requests for help from our government, has been commented on with amusement during proceedings before SIAC as evidence of Algeria's independent spirit. A desperate letter describing how he had been tortured was sent by Dendani from Algeria to the president of SIAC. It brought no response. Despite all this, it is still maintained that it is safe to deport people to Algeria. An application on behalf of appellants for a secret hearing at which information given to lawyers by those afraid of providing it in the open could be properly and safely examined has been rejected, not because SIAC considered the proposal without merit, but because the court's rules, it appears, do not allow for such a procedure.

Is the treatment of these two men simply a blip in an otherwise safe and lawful process? Is it reasonable for the Muslim community to see wider significance in the treatment of such individuals? Over the past year it has emerged that Britain has secretly been willing to disregard the most basic principles of refugee protection. First, we learned that Taleb's interrogation by the DRS was indisputably based on information received by the Algerians from the UK. Not only did Algeria possess the 2003 findings against him by SIAC (under the internment legislation that the House of Lords subsequently held to be unlawful),



but it has now been discovered that the asylum claims of possibly all of this small group of detainees have been passed to the regimes from which they had fled. Asylum rests on the central premise of confidentiality, and a clear promise to that effect is given by the Home Office to all those who claim asylum here. After all, the contents of the application, or the very fact of its having been made, might create danger for the applicant if he returned to his country of origin. In the case of one man whose appeal against the Home Office's request to deport him has not yet been considered by SIAC, we have discovered that a specially commissioned medical report describing his vulnerable condition has already been prepared by Belmarsh and sent to Jordzn.

Taleb, known throughout his internment only by a letter of the alphabet so that his family in Algeria would not be at risk, arrived there to find that all the information about him based on secret evidence under now abandoned legislation was held by the Algerians, un-anonymised. Taleb had decided to return to Algeria in the hope he would be safe, and so no court in Britain had ordered his deportation. Yet the Algerians possessed all the British government's 'evidence' about him. His subsequent trial confirmed his worst fears. His Algerian lawyers argued, and he gave evidence of this himself, that he had signed an unread 'confession' after spending 12 days in DRS custody and after having been beaten by his interrogators. The presiding judge countered by referring to the 'West' and its 'illusory democracy': 'Weren't you imprisoned, confined to your home for several years without trial, without charge and without respect for any procedure of either inquiry or investigation

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in a democratic country par excellence, Great Britain? No one in this court can teach us a lesson or put to us the least complaint on this matter, since in this country no person has been subject to such treatment.' Taleb's claim for asylum in the UK he saw as amounting to a 'betrayal' of his country of origin. Asylum was accorded 'only to those who hated their own country', and the judge commented at length on Algerians who had gone abroad and painted a black picture of the country's human rights situation 'to the benefit of NGOs whose time was spent vitiating the truth about Algeria'.

Taleb's eventual conviction was, curiously, for going to Afghanistan in 1991 to fight the Russians. In fact, he went to Pakistan in 1991 as an idealistic 18-year-old, where he taught refugees from Afghanistan; the Russians had left two years earlier. As for the amnesty he had signed? Not only its relevance but its existence was denied. The United Kingdom displayed no interest in any of this. The reality is that British Petroleum has sunk £6 billion into obtaining oil from Algerian southern Sahara; the US and the EU are scrambling with the UK for a slice of Libya's economic potential; and Jordan, one fifth of whose annual national income is provided by the US, is content to act as its most reliable provider of safe destinations for rendition and torture.

In February, a judgment published by the European Court of Human Rights in the case of a Tunisian whom Italy sought to deport, although Tunisia continues to practise torture, revealed that the UK had tried to intervene in the case in the hope of undoing one of the European Court's most important decisions, *Chahal v. UK*, in which the court insisted that the claim of

a risk to national security could never trump a European country's international obligation not to return a refugee who might be tortured. The European Court rejected this attempt in strong terms.

Through a myriad other routes Britain attempts to evade internationally recognised legal restraints. Several years ago Tony Blair attempted to deport an Egyptian human rights lawyer who had been the victim of truly terrible torture in his own country: Blair argued that an assurance from Egypt of the man's safety would suffice. Unusually, during a court challenge to the legality of his detention, private memoranda between Blair and the Home Office were made public. Across a note from the Home Office expressing concern that even hard assurances given by Egypt were unlikely to provide real protection against torture and execution, Blair had scribbled: 'Get them back.' Beside the passage about the assurances he wrote: 'This is a bit much. Why do we need all these things?' The man succeeded in his court challenge, but today, on the basis of secret information provided by Egypt, he is the subject of a UN Assets Freezing Order managed by the Treasury. He has no assets, no income and no work, and can be given neither money nor 'benefit' without a licence. 'Benefit' includes eating the meals his wife cooks. She requires a licence to cook them, and is obliged to account for every penny spent by the household. She speaks little English and is disabled, so is compelled to pass the obligation onto their children, who have to submit monthly accounts to the Treasury of every apple bought from the market, every bus fare to school. Failure to do so constitutes a criminal and imprisonable offence. A few weeks ago in the House of Lords, Lord

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Hoffman expressed horror at 'the meanness and squalor' of a regime 'that monitored who had what for breakfast'. The number of such cases now multiplies daily. They have nothing at all to do with national security, they only succeed, as they are intended to, in sapping morale; they have everything to do with reinforcing the growing belief of the suspect community that it is expected to eradicate its opinions, its identity and many of the core precepts of its religion.

In December 2001 it was a small group of foreign nationals who paid the price for Blair's wish to show solidarity with the US; and their predicament has never been widely known or understood beyond the Muslim community. But joining them in prison today are more and more young British men, and occasionally women. Many have little or no idea why they are there, although even more disturbingly, the majority were tried by the courts in conventional trials before conventional juries. Why is it, therefore, that the accused do not seem to comprehend why they are there when the prosecution has in any trial to serve all of its evidence in the form of statements, in order to inform the defendant of the case against him? The answer is that the vice underlying the internment/deportation cases is now being perpetrated in conventional trials. The accusations are similarly inchoate: defendants are said to be 'linked to terrorism' or 'linked to extremism and/or radical ideology'. In these cases, the evidence before the court has time and again been found after a search on a defendant's computer or in a notebook; the defendant is charged with possession of a certain item or this item is held to demonstrate the defendant's desire to incite, encourage or glorify terrorism.

## WAS IT LIKE THIS FOR THE IRISH?

The right to a fair trial is in many ways difficult to articulate. If a defendant believes his or her prosecution is unjust, does he or she have any concepts to hang onto that are not entirely nebulous, unless they can prove, as those wrongly convicted in Birmingham or Guildford did, that their confessions had been brutally coerced? Or in the case of Judith Ward, when it was proved that the prosecution had withheld for 18 years evidence that disproved her claimed fantasies, or that of Danny McNamee, in which the information that circuit boards identical to those he was held to have used were in the possession of an actual bomb-maker was kept from his defence and a fingerprint was claimed to be his when it was not. In each of these cases, bad, misleading and on occasion false 'expert' evidence also played its part. Less well-known guarantees of a fair trial do, however, exist, just as clear protections for refugees exist, which were equally intended to hold good for all time and in the face of all emergencies. The relevant provisos, which underpin the right to a fair trial, are that the law should be clear and certain so that individuals can be confident that their behaviour does not transgress the limits society has set; that the application of the law should never be retrospective; and that there are protections intended to preserve freedom of speech, religion, thought and privacy. Young Muslims search the internet in their tens of thousands, as do non-Muslims. Any internet search, however, leaves an ineradicable trace which can and does provide material that puts its searcher now at risk of prosecution for possession of information that might be 'of use to terrorists'. They even risk arrest for writing anything that could be said to 'incite' or 'encourage'

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This is the context of many current prosecutions. The fruits of a police search are uncovered, prosecutions mounted for the 'possession' of literature, films and pamphlets bought or viewed on websites, even if that viewing was swift and the item discarded or even deleted. The defendants are stigmatised as potential terrorists and their cases considered by juries more often than not without even one Muslim among their ranks to provide what the concept of 12 jurors randomly selected is intended to contribute to the trial process – a reflection of the collective good sense of the community.

Two young Muslim women were separately tried at the Old Bailey last year for having written works deemed by the prosecution to be for a terrorist objective. One was the 'Lyrical Terrorist', whose appeal against conviction is due to be heard shortly. The other, Bouchra El-Hor, was acquitted by her jury; she had the good fortune to have as a defence witness Carmen Callil, who witheringly described the letter that El-Hor had written as a classic example of the way devout women, whether Catholic or Quaker, Puritan or Muslim, experiment with creative writing as a means of expression while living isolated existences. The jury laughed at Callil's savage critique, but one could see recognition and understanding follow.

This is very dangerous territory, however, where a lucky accident of interpretation is critical to a jury's understanding of a case and where police and prosecutors, neither of them armed with any understanding of Islam, press on with prosecutions although the court struggles properly to understand what is at issue. Where the human story is straightforward, the task is

far easier, but even so, now that secret accusations and secret courts have intruded into the sacrosanct forum of an open jury trial in which secrecy is not allowed, what is a jury to make of an allegation that a defendant has breached a Control Order imposed on the basis of secret evidence which holds that he is a risk to national security? On trial just before Christmas was a young Essex Muslim, Ceri Bullivant, who had been placed under a Control Order and then charged with a criminal offence when he absconded, unable to cope with the restrictions of that order. In his case the jury magnificently acquitted him on the basis that he had a reasonable excuse to breach his order. It was only later, however, in the High Court, that what lay behind the secrecy became suddenly clearer. Mr Justice Collins quashed the order itself; before he did so, an Intelligence agent giving evidence from behind a screen admitted that the tip-off which had led to the decision that Bullivant was a risk to national security and ‘associated with links to terrorists’ had come from a friend of Ceri’s mother who, after drinking heavily, had phoned Scotland Yard, which failed ever to contact the caller to ask for further explanation. Equally disturbingly, a childhood friend of Bullivant’s told the court that he had been approached by MI5 officers and asked to spy on local Muslim youths. When he pointed out this was unlikely to be productive since he was not himself a Muslim, he was encouraged to become one and told that ‘converts are given a special welcome.’

From a distance such blundering negligence might seem merely laughable, but those affected by it feel resentment, anger and despair. Why should young people as much a part of Britain as any other citizen

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require what are in effect interpreters to establish their innocence? The more religiously based the evidence, the greater the opportunity for obstinate incomprehension. Conspicuous by its absence in case after case is any evidence, expert or otherwise, proffered by the prosecution that attempts to explain the most basic concepts of Islam to a non-Muslim jury. Take the instance of a saying of the Prophet Muhammad familiar to all Muslims: ‘Fight the unbelievers with your wealth, yourselves and your tongues.’ Should a man who made a supplication in those terms in Regent’s Park Mosque on the holiest night of Ramadan four years ago, in support of the citizens of Fallujah who were that night defending their city in the face of the announced eradication by US troops of all who remained there, have anticipated that he might be breaking the law, or that he could be charged and prosecuted in 2008 after a friend’s home video of his prayer was found by police in a raid? He had, after all, repeated those same challenging words many times over the years, and explained again and again to the public, to the police and politicians, one of the most fundamental concepts of Islam, the Ummah, which makes every Muslim anywhere in the world the brother of every other Muslim, so that if one is attacked others are obliged to help. Should he be surprised to be prosecuted for having reiterated these same words of support in a mosque? The answer lies in Blair’s warning: ‘The rules of the game have changed.’ Previously accepted boundaries of freedom of expression and thought have been redefined and are now in effect being prosecuted retrospectively, with the result that our criminal justice system is becoming further distorted as many truly innocent

defendants plead guilty, against their lawyers' advice, terrified by the prospect, as they see it, of inevitable conviction and ever lengthening prison sentences. Thousands of others, all of whom have searched the internet, watch with horror the process of criminalisation and punishment.

In this country we did not grow up with a written constitution and human rights legislation entered our law only recently. In times of tension we struggle to find answers to basic questions. Are there rules and can they be changed? Are there legal concepts that protect a community under blanket suspicion, or should that community's adverse reaction to suspicion be seen as oversensitivity in the face of perceived political necessity? Should we accept the concept of the greatest good for the greatest number? The answer is again the same: we are bound by international treaty and, belatedly, by domestic human rights legislation, to hold that there are inalienable rights that attach to the individual rather than society. Article 8 of the European Convention protects not only respect for family and private life, but also the individual against humiliating treatment; Article 10 protects freedom of expression, Article 9 freedom of thought, conscience and religion, and Article 14 guarantees that in the enjoyment of these rights any discrimination is itself prohibited. Occasionally, fierce campaigning successfully sounds an alarm: the proposed extension from 28 to 42 days of the time allowed for questioning those suspected of involvement in terrorism is being energetically fought. But there are less obvious erosions of parallel rights.

If this is indeed how it was for the Irish, we should urgently try to understand how significant change came about for them. Much current reminiscence ignores vital

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**Throughout the thirty years of conflict, forty million Americans of Irish descent formed an electoral statistic that no US administration could afford to ignore. It is said that on the night before he decided to grant a visa to Gerry Adams, Bill Clinton watched a film about the catastrophic injustice inflicted on one Irish family by the British state**

factors, such as the inescapable responsibility of the Irish Republic and, above all, the political weight of the Irish diaspora and the far-sightedness of those who began and maintained contact, long before Blair was elected and claimed the ultimate prize. Throughout the thirty years of conflict, forty million Americans of Irish descent formed an electoral statistic that no US administration could afford to ignore. It is said that on the night before he decided to grant a visa to Gerry Adams, Bill Clinton watched a film about the catastrophic injustice inflicted on one Irish family by the British state. Here, Lord Scarman and Lord Devlin, retired law lords, joined Cardinal Hume, the head of the Catholic Church in England, in educating themselves in the finest detail of three sets of wrongful convictions involving 14 defendants. At one critical moment Cardinal Hume confronted the home secretary, Douglas Hurd, challenging the adequacy of his briefing.

No similar allies for the Muslim community are evident today, capable of pushing and pulling the British government publicly or privately into seeing sense. Spiritually, the Muslim Ummah is seen as being infinite, but the powerful regimes of the Muslim world almost without exception not only themselves perpetrate oppression, but choose to work hand in hand with the US and the UK in their 'war on terror'. It is for us, as a nation, to take stock of ourselves. We are very far along a destructive path, and if our government continues on that path, we will ultimately have destroyed much of the moral and legal fabric of the society that we claim to be protecting. The choice and the responsibility are entirely ours. **CT**

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