

# COUNTER-TERRORISM AND HUMAN RIGHTS CONFERENCE 2010

RECENT DEVELOPMENTS AND FUTURE DIRECTIONS

**Thursday 11 March 2010**

THE HOLIDAY INN LONDON BLOOMSBURY,  
LONDON WC1N 1HT



## HIGHLIGHTS INCLUDE:

- Public interest immunity and secret evidence
- Control orders
- Terrorism offences and sentencing
- Criminal proceedings: pre-charge detention and post-charge questioning
- Civil proceedings: deportation, terrorism and national security
- Legal issues in the war on terror
- The future of UK counter-terrorism law and policy

**EARN 6 CPD HOURS**  
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## KEYNOTE SPEAKER:

*The Hon. Mr Justice Blake*

## PLENARY SPEAKERS:

*Michael Fordham QC*  
*Philippe Sands QC*

## SPEAKERS:

*Ali Naseem Bajwa,*  
25 Bedford Row

*Lord Carlile QC,*  
Independent  
Reviewer of Terrorism Legislation

*Tim Eicke,*  
Essex Court Chambers

*Judith Farbey,*  
Doughty Street Chambers

*Nick Fussell,*  
Home Office Legal Advisers' Branch

*Max Hill QC,*  
18 Red Lion Court

*Raza Husain,*  
Matrix Chambers

*Alison Morgan,*  
6 KBW

*Gareth Peirce,*  
Birnberg Peirce & Partners

*Matthew Ryder,*  
Matrix Chambers

*Professor Clive Walker,*  
University of Leeds

*Deborah Walsh,*  
Deputy Head of Counter-Terrorism  
Division, Crown Prosecution Service



**JUSTICE**



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## KEEP ABREAST OF FAST-MOVING CHANGES

Counter-terrorism law and practice is in a state of flux. In the United States, the Obama administration has announced its intention to close Guantanamo Bay and renounced the use of torture. But, here in the UK, the courts are still grappling with the fallout from the 'War on Terror'.

The past year has seen important developments – both in terms of new legislation and case-law.

The Counter-Terrorism Act 2008 includes provisions for post-charge questioning, post-sentence monitoring and a new appeals regime for asset-freezing orders.

In the courts, there have been a number of significant decisions affecting a range of counter-terrorism measures including:

- Control orders – the groundbreaking decision of the House of Lords in *AF* and others in July has reshaped the legal landscape;
- Deportation – *RB and U* (House of Lords) upheld the government's policy of negotiating assurances with Algeria and Jordan, but the European Court of Human Rights is due to hear the Abu Qatada case in 2010;
- Criminal cases under Terrorism Acts 2000 and 2006 – *R v G*; *R v J* (House of Lords) and *R v da Costa* (Court of Appeal)
- Public interest immunity – the appeals in Binyam Mohamed and Al Rawi show the courts balancing competing public interests of national security and open justice;
- Stop and search – more than 100,000 people have been searched under s44 of the Terrorism Act since its introduction in 2000. Now the European Court of Human Rights in *Gillan* has ruled the power breaches the right of privacy. What is the future for this controversial power?

And, with a general election looming, the future course of counter-terrorism law is uncertain. Control orders may be ultimately be replaced, but with what? Will a new Parliament produce the long-awaited consolidating Act?

## AN IN-DEPTH ANALYSIS FROM LEADING EXPERTS:

The **Counter-terrorism and Human Rights Conference** will provide you with a comprehensive, up-to-date picture of the state of current counter-terrorism law. In attending, you will benefit from:

- A keynote address from Mr Justice Blake – a judge with wide experience of issues concerning national security
- A detailed assessment of the key issues of public interest immunity and secret evidence
- Specialist breakout sessions, covering:
  - Control orders
  - Terrorism offences and sentencing
  - Criminal proceedings – including pre-charge detention and post-charge questioning
  - Civil proceedings – including deportation on the grounds of national security
- Guidance on the domestic and international legal issues raised by the war on terror
- An expert panel's assessment of the likely future direction of UK counter-terrorism law and policy

## SPOTLIGHTING THE KEY ISSUES FOR PRACTITIONERS AND POLICY-MAKERS:

- Counter-Terrorism Act 2008 – what have been its effects after 15 months of operation?
- The control order regime – where next after the Lords decision in *AF*?
- Intercept evidence – more than two years after the Chilcot report, will the ban on its use ever be lifted?
- Secret evidence or open justice – can the circle be squared?
- Post-charge questioning – what safeguards does the ECHR provide?
- Deportation and diplomatic assurances – how has recent case-law developed?
- The UK in the dock – what are the implications of allegations of unlawful rendition, complicity in torture and abuse of detainees?
- A new Parliament – what will a general election mean for the future of UK counter-terrorism policy and practice?



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# BENEFIT FROM A COMPREHENSIVE PROGRAMME OF TOPICS

## 9.00 REGISTRATION

### 9.30 MORNING PLENARY SESSION

Chaired by *Shaheen Rahman*, 1 Crown Office Row

Introduction from the Chair

#### KEYNOTE SPEECH

*The Hon. Mr Justice Blake*

## 10.00 PLENARY SPEECH

### PUBLIC INTEREST IMMUNITY AND SECRET EVIDENCE

*Michael Fordham QC*, Blackstone Chambers

The law relating to disclosure (public interest immunity) and the law relating to closed proceedings are two areas that have become increasingly intertwined, especially in cases involving national security. Michael Fordham QC will discuss the important human rights obligations at stake and analyse the latest judicial decisions in this area.

## 10.30 DISCUSSION/QUESTIONS

## 11.00 COFFEE BREAK

### 11.15 MORNING BREAKOUT SESSIONS

[choose one session from the following two]

#### 1. CONTROL ORDERS

*Judith Farbey*, Doughty Street Chambers

*Tim Eicke*, Essex Court Chambers

The control order regime has recently been dealt a severe blow by the House of Lords in *AF*, which makes it clear that a suspect must be given sufficient information about the allegations against him in order to be able to give instructions to the special advocates representing him. Are control orders still a viable counter-terrorist mechanism? And what other case-law must be considered in making allegations and setting conditions?

Chaired by: *Qudsi Rasheed*, JUSTICE

#### 2. TERRORISM OFFENCES AND SENTENCING

*Max Hill QC*, 18 Red Lion Court

*Ali Naseem Bajwa*, 25 Bedford Row

The past twelve months have seen important judgments handed down on constituent elements and sentencing of terrorist offences, including those under the Terrorism Acts of 2000 and 2006. New legislation on sentencing for terrorist offences has also been enacted. This session will provide a full update on relevant case-law and statutory provisions.

Chaired by: *Sally Ireland*, JUSTICE

## 12.45 LUNCH

## 13.45 AFTERNOON BREAKOUT SESSIONS

[choose one session from the following two]

### 3. CRIMINAL PROCEEDINGS: PRE-CHARGE DETENTION AND POST-CHARGE QUESTIONING

*Matthew Ryder*, Matrix Chambers

*Deborah Walsh*, Deputy Head of Counter-Terrorism Division, Crown Prosecution Service

The controversial pre-charge detention regime for terror suspects is now in operation. The Counter-Terrorism Act 2008 has also made provision for the use of post-charge questioning in terrorist cases. But what are the criteria for using these powers? And what restrictions upon them are provided by the European Convention on Human Rights?

Chaired by: *Jodie Blackstock*, JUSTICE

### 4. CIVIL PROCEEDINGS: DEPORTATION, TERRORISM AND NATIONAL SECURITY

*Raza Husain*, Matrix Chambers

*Nick Fussell*, Home Office Legal Advisers' Branch

Despite the introduction of control orders and increases to the maximum period of pre-charge detention in criminal cases, deportation on the grounds of national security continues to be a major feature of the government's counter-terrorism strategy. This session looks at how the Special Immigration Appeal Commission's case-law has developed in recent years, particularly in light of the use of assurances against torture negotiated with countries such as Jordan.

Chaired by: *Eric Metcalfe*, JUSTICE

## 15.15 TEA BREAK

### 15.30 AFTERNOON PLENARY SESSION

Chaired by: *Roger Smith*, JUSTICE

#### LEGAL ISSUES IN THE WAR ON TERROR

*Philippe Sands QC*, Matrix Chambers

The counter-terrorist policies of the UK government have given rise in recent years to allegations of unlawful rendition, complicity in torture and abuse of detainees – for example those currently being examined in the Baha Mousa inquiry and the case of Binyam Mohamed. Professor Sands will assess the domestic and international legal issues raised.

### 16.10 PANEL DISCUSSION

#### THE FUTURE OF UK COUNTER-TERRORISM LAW AND POLICY

*Professor Clive Walker*, University of Leeds

*Alison Morgan*, 6 KBW

*Gareth Peirce*, Birnberg Peirce & Partners

*Lord Carlile QC*, Independent Reviewer of Terrorism Legislation

How will ministers respond to challenges to counter-terrorism laws and policies, before and after the general election? What is the future for controversial powers such as stop and search post-*Gillan*? What will the implications be for practitioners? And what is likely to influence UK counter-terrorism law in the next one to two years? Our expert panel will assess these issues from a number of different perspectives.

## 17.00 CLOSE

Please note that the programme is subject to change without notice

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# COUNTER-TERRORISM AND HUMAN RIGHTS CONFERENCE 2010

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