

PAPER 3F: LAW

For information only, not to be translated: The following text consists of extracts from the speech made in December 2004 by Lord Hoffman, member of the Appellate Committee of the House of Lords, which concerned the question whether the indefinite detention, on suspicion and without trial, of nine foreign citizens in Belmarsh Prison and Broadmoor Hospital, under the Anti-Terrorism, Crime and Security Act 2001, was compatible with the human rights of persons in the United Kingdom. Translate for an article to appear in an international journal on human rights.

TRANSLATION TO BEGIN HERE:

My Lords,

86. I have had the advantage of reading in draft the speech of my noble and learned friend Lord Bingham of Cornhill and I gratefully adopt his statement of the background to this case and the issues which it raises. This is one of the most important cases which the House has had to decide in recent years. It calls into question the very existence of an ancient liberty of which this country has until now been very proud: freedom from arbitrary arrest and detention. The power which the Home Secretary seeks to uphold is a power to detain people indefinitely without charge or trial. Nothing could be more antithetical to the instincts and traditions of the people of the United Kingdom.

87. At present, the power cannot be exercised against citizens of this country. First, it applies only to foreigners whom the Home Secretary would otherwise be able to deport. ...Secondly, it requires that the Home Secretary should reasonably suspect the foreigners of a variety of activities or attitudes in connection with terrorism... If... the suspect is detained, his detention must be reviewed by the Special Immigration Appeals Commission. They can decide that there were no reasonable grounds for the Home Secretary's suspicion. But the suspect is not entitled to be told the grounds upon which he has been suspected. So he may not find it easy to explain that the suspicion is groundless. In any case, suspicion of being a supporter is one thing and proof of wrongdoing is another. Someone who has never committed any offence and has no intention of doing anything wrong may be reasonably suspected of being a supporter on the basis of some heated remarks overheard in a pub. The question in this case is whether the United Kingdom should be a country in which the police can come to such a person's house and take him away to be detained indefinitely without trial.

88. The technical issue in this appeal is whether such a power can be justified on the ground that there exists a "war or other public emergency threatening the life of the nation" within the meaning of article 15 of the European Convention on Human Rights...

97. ...In my opinion, such a power in any form is not compatible with our constitution. The real threat to the life of the nation, in the sense of a people living in accordance with its traditional laws and political values, comes not from terrorism but from laws such as these. That is the true measure of what terrorism may achieve. It is for Parliament to decide whether to give the terrorists such a victory.