Common Error No. 17 [1]

Written by **Dr Madsen Pirie** [2] | Saturday 26 January 2008

17. "We should allow the police to hold suspected terrorists for a long period while the evidence is assembled."

When the law holds people in custody it has them as prisoners. Since they have not been before a court and convicted of a crime, we must be careful that this custody does not constitute a sentence without trial. If the authorities can hold people indefinitely to question them and gather evidence, they will not need a trial to sustain what is, in effect, a prison sentence. This is why the law forbids them to do so for long periods. They are required to produce the accused in person before a court of law. It is called habeas corpus and is one of the cornerstones of our liberties. The law cannot hold us incommunicado; it must produce us in the body.

The period is short, typically 48 hours, and can be briefly extended only by asking the permission of a magistrate. This cannot be repeated indefinitely; at some point the accused must either be released or charged and go to trial.

Government has attempted to extend this period of confinement to many weeks in cases of suspected terrorist crimes, but produced no good reasons to support its case. Neither Parliament nor people were told why so long a period was deemed useful or necessary.

The problem is that when police are given powers, they have used them for cases they were never intended to cover. US laws designed to stop mafia-style racketeering have been routinely used on business transgressions. A UK anti-terrorist law enabled police to detain an 80 year-old who dared heckle a government minister, and a Scottish pedestrian who walked along what was marked as a cycle track.

The law which prevents long confinement without trial is important for our liberties. Nothing has emerged to suggest that it should be over-ridden when the police wish it to be.

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