

'There is no war on terror'

Outspoken DPP takes on Blair and Reid over fear-driven legal response to threat

Clare Dyer, legal editor
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The director of public prosecutions, Sir Ken Macdonald, put himself at odds with the home secretary and Downing Street last night by denying that Britain is caught up in a "war on terror" and calling for a "culture of legislative restraint" in passing laws to deal with terrorism.

Sir Ken warned of the pernicious risk that a "fear-driven and inappropriate" response to the threat could lead Britain to abandon respect for fair trials and the due process of law.

He acknowledged that the country faced a different and more dangerous threat than in the days of IRA terrorism and that it had "all the disturbing elements of a death cult psychology".

But he said: "It is critical that we understand that this new form of terrorism carries another more subtle, perhaps equally pernicious, risk. Because it might encourage a fear-driven and inappropriate response. By that I mean it can tempt us to abandon our values. I think it important to understand that this is one of its primary purposes."

Sir Ken pointed to the rhetoric around the "war on terror" - which has been adopted by Tony Blair and ministers after being coined by George Bush - to illustrate the risks.

He said: "London is not a battlefield. Those innocents who were murdered on July 7 2005 were not victims of war. And the men who killed them were not, as in their vanity they claimed on their ludicrous videos, 'soldiers'. They were deluded, narcissistic inadequates. They were criminals. They were fantasists. We need to be very clear about this. On the streets of London, there is no such thing as a 'war on terror', just as there can be no such thing as a 'war on drugs'.

"The fight against terrorism on the streets of Britain is not a war. It is the prevention of crime, the enforcement of our laws and the winning of justice for those damaged by their infringement."

Sir Ken, head of the Crown Prosecution Service, told members of the Criminal Bar Association it should be an article of faith that crimes of terrorism are dealt with by criminal justice and that a "culture of legislative restraint in the area of terrorist crime is central to the existence of an efficient and human rights compatible process".

He said: "We wouldn't get far in promoting a civilising culture of respect for rights amongst and between citizens if we set about undermining fair trials in the simple pursuit of greater numbers of inevitably less safe convictions. On the contrary, it is obvious that the process of winning convictions ought to be in keeping with a consensual rule of law and not detached from it. Otherwise we sacrifice fundamental values critical to the maintenance of the rule of law - upon which everything else depends."

His comments will be seen as a swipe against government legislation allowing the indefinite detention of suspected terrorists without trial, later held incompatible with human rights by the courts, and the replacement law that permits suspects to be placed under control orders instead of being brought to trial.

Sir Ken referred to the government's opt-out from the European convention on human rights to pass the detention law - possible under the convention only if the "life of the nation" is threatened. "Everyone here will come to their own conclusion about whether, in the striking Strasbourg phrase, the very 'life of the nation' is presently endangered," he said. "And everyone here will equally understand the risk to our constitution if we decide that it is, when it is not."

The criminal justice response to terrorism must be "proportionate and grounded in due process and the rule of law," he said. "We must protect ourselves from these atrocious crimes without abandoning our traditions of freedom."