

# Liberal in name only

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This article, by [Conor Gearty](#), originally appeared in the [Guardian](#) on 9 July 2010.

How real is the Liberal Democrats' dedication to civil liberties? This may seem an odd question, given that the protection of liberty would seem to be among the very few areas on which liberals of all political persuasions agree, and that the decision to end stop and search powers under the Terrorism Act 2000 was [announced on Thursday](#).



But to what, exactly, is the party committed? Clearly there is a strong libertarian thread, a belief that the big brother state needs to be shaken off, and this explains the hostility to identity cards, CCTV cameras and the retention of DNA samples. Another theme is a romantic dedication to the past, with promises to “protect historic freedoms” through a return to jury trial, to “restore rights to non-violent protest” and to act to prevent “the proliferation of unnecessary new criminal offences”.

If carried forward in an unambiguous manner, these policies will have big implications in terms of criminal law enforcement, the safety of the general public and the administration of justice. [Nick Clegg's website consultation](#) on which laws should be abolished, Your Freedom, gives a taste of the marauding jungle of free individuals in which it would seem many libertarians of this sort believe we should live – Hobbesians, but without a belief in any need for Leviathan.

It is hard to believe that much will be allowed to come out of this “radical” initiative since so little of it would survive political examination: no CCTV on the roads? Give up on all DNA? Juries even where severe intimidation has been proved? Every government starts with grand gestures in the arenas to which they have especially committed themselves in opposition. No doubt there will be a freedom bill with a few sensible safeguards improving this or that, but it will be more a learned Law Commission report than constitutional revolution.

And the Lib Dems have bottled the big issues, where they could have made a substantive difference. The suspended stop and search powers had already been the subject of a [hostile Strasbourg ruling](#), which needed to be addressed at some point, by whoever happened to be in government. In opposition, the Lib Dems' freedom bill promised an end to 28-day detention without charge and to anti-terrorism control orders. But each remains, with a review promised in the autumn. What is the likelihood of the party learning something between now and then that propels them to insist on repeal over Tory opposition? It was one of their founding fathers, Roy Jenkins, who in 1974 introduced the first terrorism law – and he said it was for just six months. A review or three later, and the law is still with us, greatly expanded and doing harm to the Muslim community in the way that it once did to the Irish. No party becomes more, rather than less, liberal on terrorism issues when in power. The moment for change has passed: the review is merely a way of camouflaging the retreat.

The same is true of the supposed commitment to “restore rights to non-violent protest”, which has made it into the joint programme of government. But what can this mean if the police are able to [clear Parliament Square](#) of protestors with apparent impunity on the very morning of the Queen's speech to parliament announcing a bill to restore freedom and civil liberties? Imagine if Labour had initiated a new term in this way – the liberty activists who convinced themselves we were living in a police state under Blair and Brown would be hysterical with rage – but from them, silence.

In truth, in civil liberties as in tax and welfare and everything else, there is always a large gulf between what the Lib Dems say and what they do. Sunk in opposition for decades, they have found words easy and cheap applause so seductive that they have become inured to both. This is not the best training to resist a Conservative party that believes the Thatcherite era to have been a golden age, and which will need police power to deal with the unrest and union activism that its attacks on the poor and the workers are bound to produce.

An early target for the Tories is likely to be the [Human Rights Act](#). The [joint programme for government](#) commits only to a commission to investigate the whole issue, and already (after a court ruling resisting the expulsion of suspected terrorists on the ground that they would be tortured in their home states) both the home secretary and the prime minister himself have made clear their dislike of the act.

We are only an atrocity or two, or a hyped-up media campaign, away from real pressure on the act. Lib Dem support for the Human Rights Act has always been lukewarm – their goal had long been for a much grander constitutional settlement. And there are many civil libertarians who would relish its passing if it could be replaced by a “British” bill of rights with freedoms aimed more at keeping big brother out of English castles than asylum seekers and prisoners out of despair.

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