

Snooper's Charter 2.0 leaves trade unions vulnerable to surveillance

The Investigatory Powers (Amendment) Bill (IPAB) purports to protect trade unions from surveillance, but it does not. In fact, if the security services want to surveil trade unions, they can.

Rights & Security International (RSI) calls on the government to redraft Clause 5 of the IPAB and amend Sections 20, 21, 60A, 61A, 87, 94, 102, 103, 104, 106, 158, 204 and 205 of the Investigatory Powers Act 2016 (IPA) to leave no room for doubt that the intelligence services cannot surveil trade unions' members or activities. If police believe trade union members are engaged in a criminal offence, they can go through normal procedures.

Such protections should also apply to everyone in the UK. However, we are concerned that unions and their members may not be aware of the lack of protections.

Under the European Convention on Human Rights, everyone has a right to form and join trade unions. Everyone also has a right to respect for the privacy of their correspondence. Trade union membership status is also supposed to have special protections under UK data protection law.

No protection for trade unions

The existing Investigatory Powers Act is already bad for trade unions. Regarding a range of secret surveillance powers, the Act says:

'The fact that the information which would be obtained under a warrant relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that the warrant is necessary...'¹

This provision does not actually protect trade unions or their members from surveillance. Instead, it indicates that the government believes it has the power to spy on union activities as long as it can come up with some reason other than 'because they're union activities'. For example, the security services can use the IPA's surveillance powers on the grounds of the UK's 'economic well-being'.²

In other words, if the security services want to secretly surveil trade unions and their members, they can.

The IPAB would make things worse by inserting a new part 7A, creating a new category of 'third-party bulk personal datasets' (BPDs) consisting of large amounts of personal data collected by tech companies (such as social media companies) and other entities outside of the government.³ BPDs, by their nature, will mostly include data about people who are not suspected of any crime, and are simply digital bystanders.⁴ The Bill uses the same language as that quoted above to establish that a BPD could include data about trade union activities.

Therefore, there is a real possibility that the security services could use their powers to surveil trade unions, including to monitor the possibility of strike actions.

The UK's intelligence services have previously overstepped their bounds: the 'blacklisting scandal' – publicised in the early 2000s – is a high-profile example of the government using surveillance powers to monitor and shut down trade union action. This scandal saw the collusion of the intelligence services and employers, which led to the latter 'blacklisting' trade union members and preventing them from accessing employment.⁵ For instance, when Unite

¹ [Investigatory Powers \(Amendment\) Bill](#), Clause 5, proposed Section 226G(5).

² E.g. [Investigatory Powers Act 2016](#), s20(2)(c).

³ [Investigatory Powers \(Amendment\) Bill](#), Clause 5, proposed Section 226E.

⁴ [Investigatory Powers \(Amendment\) Bill](#), Clause 5, proposed Section 226E.

⁵ See The Institute of Employment Rights, [The Guide to the Blacklisting Scandal](#) (2013); Dave Smith and Phil Chamberlain, 'On the blacklist: how did the UK's top building firms get secret information on their workers?' (*The Guardian*, 27 February 2015).



member and former steel erector/rigger Darrell Crapper was blacklisted because of his trade union activities, he ended up unemployed for more than eight years.⁶

Without strong safeguards, there is a real risk that the security services will act to spy on and undermine industrial action in a way that violates rights, or will target individuals.⁷

We call on the government to redraft Clause 5 of the IPAB and amend Sections 20, 21, 60A, 61A, 87, 94, 102, 103, 104, 106, 158, 204 and 205 of the IPA to leave no room for doubt that the intelligence services cannot spy on trade unions or their members, and that any suspicion of criminal wrongdoing should lead to regular criminal justice investigations that protect rights.

About Rights & Security International

Rights & Security International is a London-based charity working to eliminate human rights abuses committed in the name of national security. We challenge religious, racial and gender bias in national security policies, and advocate for justice and transparency for victims of human rights abuses.

⁶ Unite Legals Services, '[Darrell's Story](#)' (Unite Legals Services, no date).

⁷ Cian C. Murphy, '[State Surveillance & Social Democracy: Lessons after the Investigatory Powers Act 2016](#)', in Alan Bogg *et al* (eds.), *The Constitution of Social Democracy: Essays in Honour of Keith Ewing* (London: Bloomsbury, 2020), p.11.