Do we need more counter-terrorism powers? Why Theresa May's 'four-point' plan is redundant

*Following the London Bridge attack in June 2017, the Prime Minister announced a four-point plan to tackle terrorism. **Simon Hale-Ross** questions the validity of this plan, and illustrates how the current counter-terrorism structure in the UK is more than adequate.*

Do we need more counter-terrorism powers? The short answer is no, we do not: the Human Rights Act 1998 is not the enemy, and the Prime Minister's four-point plan is meaningless in terms of dealing with the present terrorist threat. The current threat takes two forms, both of which appear to be covered by recent reports that suggest up to 23,000 potential terrorists are currently in the UK.

Countering radicalisation

Firstly, there are those who have been radicalised at home and learn how to commit acts of terror through reading the vast amounts of information on the Internet, disseminated by the Islamic State (IS) in their online magazine 'Dabiq' and other dedicated websites. These citizens can potentially remain under law enforcements' radar until the moment of an attack.

Secondly, there are those who have left the UK to fight with terrorist groups such as IS, Al-Shabaab, and Al-Qaeda, and then have returned to the UK. The likelihood that these citizens are on a security list somewhere is increased, given that such travel is unlikely to be missed by UK and other international law enforcement agencies. Both forms pose their own specific dangers and have been legislatively addressed. To counter the first form, the UK passed the Investigatory Powers Act 2016.

Whilst this is not a counter-terrorism power per se, it does introduce greater powers of online surveillance, specifically electronic communications data surveillance, and a section that allows for the decryption of messaging applications and electronic devises.

To deal with the second form, the UK enacted the Counter-Terrorism and Security Act 2015 (CTSA), which introduced new pre-emptive specific powers aimed at stopping UK citizens from travelling to areas of conflict, to join the ranks of the IS, and to engage in terrorist military training. This law permits law enforcement agencies to seize passports and travel documents from persons suspected of involvement in terrorism. Although a temporary measure, they were debated heavily during the enactment stages and led Lord Carlile, an ex-independent reviewer of UK counter-terrorism laws to state:

> *Suppose a suspicious travel agent who is public-spirited telephones the police and says, 'I have just sold an air ticket in suspicious circumstances', and the authorities decide it is worth following the person who has bought the air ticket. That kind of incident can occur within an hour, and it does not leave the time to go off to a judge to get permission to seize that passport. We have to allow the authorities to deal with the urgent provisions made.*

Following this example and given that according to Mark Rowley, the Metropolitan Police Assistant Commissioner, at the very least a total of 700 UK citizens have travelled to Syria, with an estimated 400 having returned.

At this point, you would be forgiven for asking if there should be new counter-terrorism powers introduced to stop those IS fighters from returning to the UK. Again, the short answer is no. Part of the CTSA allows the UK Government to temporarily exclude hardened military trained terrorist from returning to the UK, despite being UK citizens.

There are of course other types of pre-emptive legislative powers available for law enforcements' use, subject to the Secretary of State's authorisation. The Terrorism Prevention and Investigation Measures Act 2011 (TPIM) represents another pre-emptive legalised measure, by prohibiting and restricting a suspected terrorist from performing certain tasks, and placing that individual under heavy surveillance. Such special executive orders are utilised when the state lacks the sufficient evidence to arrest and bring formal criminal charges. The measures available are vast and range from an overnight residence restriction; travel and location exclusions; association and access to electronic information restrictions; movements monitored; and full financial and property transactions disclosure.

Despite the fact that the counter-terrorism framework within the UK allows for such pre-emptive powers, their use appears to have been either non-existent, ineffective and/or simply sporadic. In 2016, only six citizens were subjected to a TPIM order. In relation to the amount of citizens returning from areas of conflict, this figure appears to be extremely low.

Removing online 'safe spaces'

In response to the ferociousness and the devastating nature of recent terrorist acts in London and Manchester, early state intervention is essential. This of course is what Theresa May meant in her first point, made following the attack in London on 3 June 2017. The second point however, focuses on the need for international agreements in order to remove the online 'safe spaces extremism needs to breed'.

It is true that many Internet and application service providers are located overseas, and thereby not subject to UK legislation. However, it is unlikely that any international agreement will alter the fact that law enforcement agencies, both national and international, are currently unable to monitor the Internet live. This capabilities gap was highlighted the evening of the Manchester terror attack on the 22nd May 2017, where an Islamist supporter by the username of @owys663 tweeted '#ISLAMICSTATE #manchesterarena #UK #British WE HAVE MORE…..' at 6:28pm, around four hours prior to the event.

Dealing with segregated communities

The third point is intrinsically linked to the second where May suggests the safe spaces in the 'real world' are also removed, by dealing with segregated communities. This would potentially be much more effective, empowering the public to be actively involved in challenging extremist views, thereby preventing terrorism. However, Muslim converts, rather than those who have grown up within Islamic tradition, carry out the overwhelming majority of terrorist attacks. So again, the effectiveness of tacking community segregation may not have the desired outcome, but rather drive a larger wedge, as the Muslim community is increasingly placed under suspicion.

Imposing tougher sentences

The fourth point simply suggests that prison terms be extended, specifically for criminalised pre-emptive measures, such as the collection of data likely to be useful to a terrorist under the Terrorism Act 2000, the dissemination of such data under the Terrorism Act 2006, and the encouragement to commit an act of terrorism also located under the 2006 Act. Although such a measure would essentially stop the would-be-terrorist from committing an act, in the longer term it may not achieve the desired result given the current problems of radicalisation in UK prisons.

To conclude, the current counter-terrorism and surveillance framework is robust and more than adequate at dealing with the current terrorist threat. It is simply a matter of utilising the powers more often and efficiently. However, in order to achieve this, law enforcement agencies will undoubtedly require additional funding and resources, rather than an ineffective four-point plan created with the electorate in mind.

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About the Author

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