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Christchurch Terrorist Attack, The Far-Right and Social Media: What can we learn?

The Christchurch terrorist attack on the 15th March 2019 resulting in 50 deaths of men, women and children worshipping at their mosque resulted in global shock and revulsion. What makes this attack all the more shocking is the gunman attached a camera to himself and filmed the attack on a live Facebook feed. As he did so followers around the world with the same extreme far-right views encouraged and cheered him on. As a result a number of state governments have criticised social media companies and are looking to bring these companies to account when they allow extremist and violent content to remain on their sites. Another issue that appeared to surprise many was the terrorist threat the extreme far-right pose to state security. This article will discuss how the extreme far-right threat has increased over the last few years and how their impact can be minimised. Also examined are issues around the difficulties in regulating and bringing social media companies to account in relation to posts on their sites regarding extremist content that promotes violence and hate.

Differentiating Between the Extreme Far-Right and the Far-Right

It is worth at this juncture to differentiate between the extreme far-right and the far-right, which is extreme far-right groups espouse the national socialist ideology, hence why they are referred to as neo-Nazis. Apart from being overtly anti-Semitic, racist, homophobic and intolerant of multicultural societies, they want to replace liberal democratic governments with authoritarian regimes. To achieve their aims they glorify or encourage the use of violence. In comparison, most far-right groups and political parties do not glorify or promote violence in achieving their aims, rather they want to bring about change through political and judicial processes. Although some will argue that the far-right includes both political parties and social movements that aim to mobilise public support, the far-right's anti-Islam, anti-

immigration and anti-EU narrative can still be a catalyst in influencing individuals to carry out violence and hate crime.

Examples of Global Violence Inspired by the Extreme Far-Right and Far-Right Narrative

The attack in Christchurch is not the first time we have witnessed the use of small arms on those attending a place of worship by individuals influenced by the extreme far-right or far-right ideology. Bissonnette, who was influenced by far-right ideology, was convicted in early 2019 for the murder of six Muslims he shot while attending a mosque in Quebec, Canada in 2017. While not officially aligned to any particular group and described as ‘very solitary and anti-social’, Bissonnette’s electronic footprint revealed admiration for France’s Front National and its leader Marine Le Pen, overtly supporting Donald Trump and other sites containing far-right/nationalist material. Darren Osborne was convicted of murder and attempt murder after killing a Muslim and seriously injuring other Muslims attending Finsbury Park Mosque, London after driving a van into worshippers leaving the mosque in June 2017. During Osborne’s trial evidence showed he was accessing online material posted by both the extreme far-right and the far-right that influenced him to carry out the attack that the court saw as a terrorist attack, hence why his conviction was seen as a terrorist murder resulting in him receiving a life sentence with him having to serve a minimum of 43 years. White supremacist, Dylann Roof, was convicted of murdering nine black worshippers at a church in Carolina, US, when he entered the church and shot them. During the shooting Dylan told the black worshippers that blacks were killing white people on the streets and raping white women every day. After being found guilty of murder at his trial, he received the death penalty and he is currently in prison awaiting his execution.

The violence has ranged from hate crime to, as seen in the UK in June 2016, the killing of a politician, the MP Jo Cox by Thomas Mair who was inspired by neo-Nazi

ideology to assaults on Jews, Muslims, Asians and gay men. The Jo Cox murder triggered the UK to proscribe as terrorist organisations three extreme far-right groups, National Action in December 2016 and Scottish Dawn and NS131 in September 2017. Although National Action's website contained phrases such as "gas all traitors" and "fight for your country", the initial tolerance of their narrative ceased due to the group's promotion and encouragement of acts of terrorism following the murder of Jo Cox, resulting in the group being proscribed. In proscribing these groups the former UK Home Secretary, Amber Rudd said:

National Action is a vile racist, homophobic and anti-Semitic group which glorifies violence and stirs up hatred while promoting their poisonous ideology and I will not allow them to masquerade under different names. ... Our priority as a government will always be to maintain the safety and security of families and communities across the United Kingdom and we will continue to identify and ban any terrorist group which threatens this, whatever their ideology.'

More recently another extreme far-right group extolling the national socialist narrative has also morphed out of National Action in the UK, System Resistance Network (SRN). At the time of writing, it has only been in existence for a year. Allegedly formed by Alex Davies, the founder of National Action, in Wales the group's initial activities were no more than the posting of stickers and posters around the UK, but it has recently encouraged its followers to carry out arson and vandalism in Welsh cities. SRN also encourages its followers to read Hitler's Mein Kampf and other national socialist literature and to 'smash the establishment'. As a result Welsh MP's are calling for SRN to be proscribed.

Examples of the violence carried out by National Action members includes the conviction of Zack Davies for the attempted murder of a Sikh, Dr Bhambra in June 2015. As Dr Bhambra was shopping at a supermarket, in an unprovoked attack Davies attempted to decapitate him. During the attack Davies shouted racist remarks and had with him a National Action flag. When asked by the police why he carried out the attack, Davies said it was because Dr Bhambra was Asian. In January 2017 a 17 year-old teenager from Bradford and a

member of National Action was convicted of making a pipe bomb. During his trial it was revealed the teenager idolised Hitler and saw Thomas Mair, as a hero, posting on Facebook, “There is one less race traitor in Britain thanks to this man.” In September 2017 eleven suspected members of National Action were arrested for various terrorism offences including allegedly being members of a proscribed organisation, funding terrorism, possession of terrorism related material and documents, and, preparation of terrorist acts. In June 2018, following another series of arrests in a separate investigation, Jack Renshaw pleaded guilty to being a member of a proscribed organisation (National Action) and plotting to murder Rosie Cooper, a UK Labour Party politician, and threatening to kill the police officer investigating him. Following the guilty verdict it was reported that Renshaw had been convicted in early 2018 for two counts of stirring up racial hatred in speeches he made in 2016. In July 2018 Renshaw’s co-defendants, the National Action leaders Christopher Lythgoe and Matthew Hankinson were found guilty of being members of a proscribed organisation. In November 2018 a British Army soldier, Lance Corporal Mikko Vehvilainen, was convicted for being a member of National Action and for recruiting other soldiers to join the group in order to prepare for a race war. When arrested Vehvilainen was found to be in possession of weapons and Nazi paraphernalia and during his trial there was evidence that he was planning to turn depopulated Welsh villages into national socialist communities.

The UK is not the only European state where extreme far-groups’ violence has occurred, there are many examples in all of the European states. Using two examples, firstly in Germany where the group National Socialist Underground existed for a number of years. Following a five year trial, in July 2018 Beate Zschape, a member of National Socialist Underground received a life sentence for the murder of eight ethnic Turks, a Greek citizen and a German police officer. Other German far-right groups still exist, including PEGIDA (which in English stands for Patriotic Europeans Against the Islamisation of the West).

PEGIDA run a series of marches and at its peak attracted over 20,000 marchers in Dresden. Many PEGIDA marchers are also voters of the far-right political party Alternative for Germany (AfD) and attract international attention, for example after attending PEGIDA marches UK far-right activist Tommy Robinson tried to form a British version of PEGIDA. A second example is the extreme far-right group Misanthropic Division formed in Ukraine with other Misanthropic Division groups forming in other European states. One of the more disturbing aspect of this group is its Azov Battalion, which is an independent fighting unit in the Ukrainian civil war and in 2018 they were actively seeking foreign fighters from European states. This development appears to have been overlooked by the mainstream media and politicians as, arguably, there is no difference in the concern this raises to that when citizens travelled to Syria to join the Islamist group Islamic State.

A variety of US far-right groups have existed for many years, including the Ku Klux Klan and its various affiliates and a number of nationalist inspired groups. There has been a revival in the membership of these groups as they too feel in recent times the political (and possibly social) environment is conducive for them to air more publically their views. It is estimated more than 1,600 far right groups exist in the US, albeit some with a small membership number where social media has been cited as playing a large part in promoting extreme far-right ideologies as they recruit people to their cause. President Trump's views expressed during the presidential campaign are seen as the reason for the US' increase in far-right activity. This includes violence that came to international prominence on the 12th August 2017 when a car driven by James Fields junior was driven into a crowd protesting against the far-right in Charlottesville, Virginia. In December 2018 he was convicted of killing one person and wounding nineteen people. During the trial Fields' fascination with Nazism and adulation of Adolf Hitler was revealed. While many US Democrat and Republican politicians viewed the car attack as an act of domestic terrorism, it was not treated

as such by US authorities. Formed in 2013, Atomwaffen is a US neo-Nazi group that glorifies and advocates violence, including the overthrow of the US government through the use of terrorism and guerrilla warfare. Its website contains graphic videos of their activities, including the burning of the US constitution and flag, promoting a 'race war' and the group practicing military manoeuvres in a rural area. In 2017 Atomwaffen came to public prominence in the US when the group were linked to five murders and a bomb plot, including the murder of a 19 year old Jewish gay Californian student, Blaze Bernstein, whose body was found in a public park in Orange County, California with twenty stab wounds. At the time of writing, Samul Woodward, who is accused of murdering Bernstein, has pleaded not guilty and the trial is proceeding. At least this extreme far-right inspired crime has been recognised by US authorities as a hate crime and as such should Woodward be convicted of first degree murder it could potentially result in him facing life imprisonment without parole. Even though Atomwaffen pose a threat to state security by openly promoting violence, hate and an overthrow of the US government with an authoritarian regime, the US government has not banned the group as a domestic terrorist organisation, which they would be if they were based in the UK.

The rise in populist right wing politics has created a political and social environment making the extreme far-right and far-right feel more comfortable in being more open espousing their narrative and cause. While we have witnessed tragic acts of terrorist violence inspired by the Islamist narrative around the world that resulted in state governments and agencies working together to minimise the Islamist threat, similar action is needed in relation to the threat posed by the extreme far-right and far-right right. As the attack in Christchurch showed, these states should not underestimate the threat of the extreme far-right and the far-right has in influencing individuals to carry out acts of violence in their name. While one tends to think of the right being nationalist, a degree of internationalisation has occurred

where, mainly through current forms of electronic communication, from social media to website support for and encouragement of extreme far-right and far-right activity between similar thinking citizens in various states.

Regulating Social Media and Internet Companies Content and freedom of expression

With the Christchurch attack being filmed on a live Facebook stream by the gunman, there have been calls for regulation of social media and internet companies to minimise the posting of hate inspired violence. This issue has been a cause for concern over a number of years. Companies such as Twitter, YouTube and Facebook have self-regulated standards regarding posts promoting hate and violence. For example, while consistently closing Islamic State accounts, Twitter closed the UK far-right group Britain First's account, including its leaders Paul Golding and Jeyda Fransen's accounts and more recently those related to Tommy Robinson. While these companies have algorithms to identify hate posts, many are not picked up by the algorithms. As such, to be more effective it also requires human eyes to identify these posts making it imperative these companies recruit more people to this task. Social media companies reluctance to delete offensive posts or to close accounts centres of freedom of expression as these companies do not want to be seen as censoring free speech. Whereas posts related to criminal activity such as child sex abuse is relatively straight forward, getting the balance right between what is legitimate political expression to that which is hate speech is not as straight forward as first appears. Comments that amount to hate speech will cross the parameters of what is acceptable in the right to freedom of expression, but one problem social media and internet companies face is a legislative inconsistency among states as to what amounts to hate crime.

In Canada hate offences are contained in the Canadian Criminal Code. It includes under section 318 the offence of advocating or promoting genocide (carrying a maximum

five years imprisonment) and under section 319 of the Code where, other than in private conversation, to communicate statements that wilfully promotes hatred to an identifiable group. In relation to other criminal offences, section 718(9) of the Canadian Criminal Code allows to be taken into consideration hate as an aggravating sentencing factor when the offence is motivated by bias, prejudice or hate based on race, national or ethnic origin, colour, religion, sex, age, mental or physical disability, sexual orientation or any similar factor. In relation to hate crime *per se* section 319 of the Criminal Code looks to only be effective against an individual and insufficiently strict or effective enough to deal with extreme far-right or far-right group activity. This could explain why Canadian Liberal MP, Irqa Khalid introduced a private member's motion M-103 calling on Canada's government to condemn Islamophobia and all forms of systematic racism and religious discrimination. The motion was passed by 291 to 91 votes in an attempt to target all forms of far-right activity in order to quell the climate of hate and fear. Although it is a non-binding motion, it requires the Canadian government to collect data on hate crime, conduct official assessments of affected communities but has yet to present their findings. This could be because Motion M-103 is causing the Canadian government consternation on two counts. One being how to define Islamophobia in a legal framework and secondly the motion would limit free speech in Canada and single out Islam for special treatment thereby causing further resentment by non-Muslims.

Freedom of expression is an issue that is also fettering the development of hate crime in Australia. Added to Australia's Racial Discrimination Act 1975 through the Race Hate Crime Act 1995, section 18C appears to be relatively ineffective to deal with the increase in far-right activity. This issue has resulted in many groups a desire that the Australian government look to overhaul section 18C. Under section 18C it is unlawful to otherwise than in private, to do an act where it is reasonably likely to offend, insult, humiliate a person or a group of people

where the act is done because of race, colour, or national or ethnic origin of that person or some or all of the group of people. Only a small amount of cases have made their way into the courts. Legally treated as a civil wrong, one problem Australian race hate victims have is hate speech has not been criminalised. This means individuals not the police, the Director of Public Prosecutions or the Australian Human Rights Commission must initiate complaints. As a result most complaints do not proceed any further than lodgement, some are resolved by conciliation, with many complaints being withdrawn or abandoned. One explanation for this is rights and freedoms are common law rights and the Australian legislature does not want to be seen as restricting those rights. That said, there have been a few successful complaints lodged under section 18C. In *Kanapathy v In de Braekt* (no.4) [2013] FCCA 1368, K was a security guard at the Central Criminal Courts in Perth where a lawyer, dB, racially abused K after refusing a security check by calling him a “Singaporean Prick” and repeatedly swore at him. dB was ordered to pay K AUS\$ 12,500 and was struck off. In *Ejueyitsi v Commissioner of Police (Western Australia)* [2013] FMCA 12, E was humiliated by a police officer in a public place by unlawfully handcuffing him and stripped his clothes off while saying to E, “I am going to deal with you, you bloody African”. The complaint was upheld by the Federal Magistrates Court. Such successful complaints have been all too rare an occurrence and it is time the Australian legislature considers introducing hate crime offences that have a minimal impact on the freedom of expression. This view in how Australia is dealing with hate crime is not new. James’ 2007 study into the policing of right-wing violence in Australia identified several communities vulnerable to hate crime and advocated a commitment by the police to a ‘human rights enforcement ethic’ rendering intolerable the victimisation of vulnerable communities of hate crime. Dean et.al’s 2016 study on the rise of the radical right in Australia found there to be an increase right-wing in extremism in Australia that poses a

political and community challenge not only to Australian Muslims but also to native Australian groups.

When examining US' hate provisions there is no statutory definition. This could be due to the fact freedom of expression in the first amendment in the Bill of Rights is an inviolable right. Evidence of this is seen on the FBI's website that states that hate is not a crime and the agency is mindful of freedom of speech and civil liberties. That said, the FBI do say that for statistical purposes they have provided their own definition of hate crime which is when a "traditional crime" is committed it is motivated by the offender's bias against, "...race, religion, disability, sexual orientation, ethnicity, gender and gender identity". In order to have a consistent level in hate crime maybe states like the US and Australia should adopt the approach taken by the legislators and judiciary in the UK and the rest of Europe in delineating when speech becomes a hate crime while balancing the right to freedom of expression. To put some context into what is legally acceptable in relation to freedom of expression, in the UK case *Redmond-Bate v Director of Public Prosecutions* [1999] EWHC Admin 733, Lord Justice Sedley said:

"Freedom of speech includes not only the inoffensive but the irritating, the contentious, the eccentric, the heretical, the unwelcome and the provocative, provided it does not tend to provoke violence. *Freedom only to speak inoffensively is not worth having.*" [My emphasis]

Important in this decision is that freedom of speech does not provoke violence and the European Court of Human Rights (ECtHR) has adopted a similar approach (*Handyside v UK* (1976), Application Number 5493/72). In *Erbaken v Turkey* (2006) Application Number 59405/00, the ECtHR tempered freedom of expression saying that tolerance and respect for the equal dignity of all human beings constitute the foundation of a democratic, pluralistic society, adding:

“That being so, as a matter of principle it may be considered necessary in certain democratic societies to sanction or even prevent all forms of expression which spread, incite, promote or justify hatred based on intolerance ...”

As covered above, there are many examples of far-right activities in the US and Australia that appear to cross the threshold of what is acceptable under European freedom of expression and serious consideration should be taken by both states in criminalising such commentary through legislation as hate crime and for Canada when it comes to prosecuting group activity. Examples of when this occurs can be seen in the UK’s hate crime offences.

UK hate crime comes under Part III of the Public Order Act 1986 to deal with the offences of:

1. Using threatening, abusive or insulting words or behaviour or displays written material which is threatening, abusive or insulting with the intent of stirring up racial hatred or having regards to the circumstances racial hatred is likely to be stirred up (Section 18);
2. Publishing or distributing material that is threatening, abusive or insulting with the intent to stir up racial hatred or having regards to the circumstances racial hatred is likely to be stirred up (section 19).

Hatred is defined as , “...hatred against a group of persons defined by reference to colour, race, nationality (including citizenship) or ethnic or national origins” (section 17).

As in the US, New Zealand has no hate crime legislation, which is again due to issues related to impinging on freedom of expression. Following the Christchurch attack the New Zealand Police Commissioner, Mike Bush said the police and the Human Rights Commission were investigating whether a new category of offence should be created. This is a step in the right direction, but as electronic communications is global, as we witnessed with the Islamist groups, we are increasingly seeing the internationalisation of far-right activity. It is imperative states to work together in producing consistency in statutory definitions of hate crime that crosses the parameters of what is acceptable in freedom of expression. This will not only assist the social media companies, but will set global parameters of what is and is

not legally accepted within freedom of expression making it easier for states to regulate companies who do not comply with any regulation related to hate posts that glorify to promote violence. Following the Christchurch attack the New Zealand Prime Minister, Jacinda Ardern, has called for a global fight to root out what she refers to as racist right-wing ideology, saying:

‘...I would make that a global call. ...What New Zealand experienced here was violence brought against us by someone who grew up and learned their ideology somewhere else. If we want to make sure globally that we are a safe and tolerant and inclusive world we cannot think about this in terms of boundaries.’

She is right to make this call because if states continue to have inconsistency in relation to what legally amounts to hate and freedom of expression, this has a knock-on effect with the global social media companies’ decisions of what posts to delete or ban.

Conclusion

The tragic terrorist attack in Christchurch has not been the only attack carried out by someone influenced by the ideology of the extreme far-right and far-right. As seen from the examples of such inspired violence above, this has been ongoing for a number of years, including similar style of attacks as witnessed in Christchurch, with the number of attacks inspired by the right increasing. With the world’s states focus being on Islamist inspired terrorism, extreme far-right and far-right inspired violence seems to have slipped under many states’ radar. It does not have to be members of the extreme far-right and far-right groups but individuals with no connections to those groups who are influenced by their ideology who are carrying out the attacks, just have we have seen with Islamist inspired attacks that have been claimed by groups like Islamic State such as the Westminster bridge attack in March 2017. As we have seen from the violent attacks covered above, it only takes one individual with a firearm, sharply bladed instrument or an improvised explosive device to cause the death of those the attackers hate simply because of the victim’s beliefs, religion or some other

difference. As we are seeing an increase in the internationalisation of the actions and promotion of the extreme far-right and the far-right, as discussed above, inconsistencies in hate crime that glorifies or promotes violence is hampering social media and internet companies ability to differentiate between what is *bone fide* political commentary to that which is extremist. It is hoped that states rally to the New Zealand Prime Minister's call to adopt a global approach in minimising the impact and influence the extreme far-right and the far-right ideology has. A starting point is deriving a minimum, baseline definition of hate crime to be adopted by states from which social media and internet companies can operate with legal certainty when differentiating between genuine political commentary to that which is extremist that glorifies or promotes others to commit violence.