

TERRORISM AND EXTREMISM – TODAY’S CONTEXT

My job as Independent Reviewer

May I start by thanking Dr Shuja Shafi and the MCB for the invitation to address you. I appreciate it very much.

I am a barrister in private practice who serves in a part-time capacity as Independent Reviewer, a job that was invented in the 1970s when counter-terrorism law first came to Great Britain.

My principal function is to review every year the operation of the Terrorism Acts. I read classified material from a desk inside the Home Office, and report my findings to Parliament. The reports are also placed on my website, and you can follow me on twitter @terrorwatchdog.

My job is not to defend the Government or to attack it, though I do both from time to time. It is to produce a fair picture that can inform what Parliament does.

So I am concerned to see that the laws are as effective as they can be.

But I am also concerned to see that the laws are not counter-productive or unjust in the way that they operate.

And for those purposes I to talk to as many people as I can, from Quilliam to Cage but perhaps more importantly than either of those, to people who feel exposed to the operation of the laws, whether that is in Northern Ireland or Birmingham.

Including – somewhere in the middle perhaps – the MCB, whose work I relied upon quite heavily in my report on the Terrorism Acts published in September of this year.

I also listened to the evidence of Harun Khan, Aameena Blake and Miqdaad Versi to the Home Affairs Select Committee of Parliament a couple of weeks ago. I think if I may say so they did you proud.

What do I hear from the Muslim community?

On the one hand I hear that ***the UK is one of the best places in the world to be a Muslim***. I am happy to hear that because on a personal level I think this country is very much the better for its Muslims.

I am going to sound like a politician when I say this, but I can say quite truthfully that good colleagues at the Bar and some of my family's closest friends are people of the Muslim faith. This country would in my opinion be a much poorer place without your drive, your generosity and your values.

On the other hand, I hear about ***mistrust of Muslims*** on the part of other communities, often linked to reports of terrorism and whipped up by mainstream media whose coverage can be grossly irresponsible, as I have said a number of times in my reports.

I see rising numbers of ***Islamophobic attacks***, which to me are every bit as serious as anti-semitic attacks and homophobic attacks. I applaud Fiyaz Mughal and TellMama for condemning all such attacks, abuse and threats of violence. And I applaud the Government for the steps it has taken to record hate crime by religion so that we can get a reliable sense for the size of the problem.

And I see what Miqdaad Versi described to Parliament as "*a fear some Muslims have that they are not being treated equally*", even, as he put it, "*some sort of alienation or some sort of feeling of second class citizens*".

So what should Government be trying to do?

It seems to me right, first of all, that it should have ***strong laws against terrorism***.

- In Northern Ireland last year there were 22 successful terrorist attacks, many of them against police targets.
- There was nothing comparable in the UK either from Islamist terrorists or from extreme right wingers: though one only has to look to Anders Breivik in Norway, or to what happened in Paris, Copenhagen and Tunisia earlier this year, to see that complacency about terrorism would be completely out of order.

I can also see a place for ***strong laws in relation to violent extremism***. We are a tolerant society whose strength comes from people's freedom to speak and to worship – or not to worship – as they please. But people should not have to tolerate threatening or abusive language from the sort of extremists who insulted that Muslim woman recently on the train. And by the same token, however offensive and ill-mannered it might be to draw cartoons of the Prophet – and one could have a debate about the rights and wrongs of a blasphemy law – I can see no circumstances in which threats of violence or death could be an acceptable reaction.

Where all these laws are concerned the trick, as it seems to me, is to bear down strongly on the very small minority who cause trouble in a way that does not alienate the far greater number of people in the communities from which they are drawn.

Extremism

In relation to extremism, in which I include PREVENT, I think the record is mixed. I am sure that many good things are done under PREVENT. But I receive more complaints about PREVENT than I do about all the coercive powers under PURSUE. I think the PREVENT programme should be subject to independent review - not by an English QC but by a body of people who between them have understanding of the relevant issues: internet, prisons, education, affected communities. And I do have reservations over the proposed Counter-Extremism Bill, some of which I have set out in my report of September 2015.

I was pleased to see that when the Government launched its CE strategy the other week, it did not launch the Bill at the same time, but said that it was continuing to engage widely on it. I hope it really does engage widely, including with bodies like the MCB which undoubtedly represent significant strands of opinion in this country.

Terrorism

We are unfortunately seeing an increase in terrorist plotting in Britain from the few thousand people who are interested in that sort of thing.

Arrest

There were 289 terrorism-related arrests last year, about 50% more than the average for the past 15 years. There was a particularly large rise in the 18-20 year old age group.

Though to put things into perspective a little, I should add that in Northern Ireland, with only 3% of the population of the UK, there were 227 arrests under the Terrorism Acts in 2014-15.

Is the arrest power being over-used? The figures would suggest probably not. Somewhere around half of those arrested in Great Britain are charged with a criminal offence, which is a pretty

standard figure. If there is a problem it would appear to be in Northern Ireland, where only 18% of those arrested under the Terrorism Acts were charged last year.

Executive orders

The strongest weapons in the armoury are not much used. The strongest of all is the Terrorism Prevention and Investigation Measure, or TPIM. Since TPIMs replaced control orders in 2011, a total of only three new people have been placed under them. That is as it should be, in my opinion. They should only ever be a last resort.

But a last resort that I consider it is wise to have on the statute book. They have been tested against human rights standards in the courts, and found to be acceptable in principle. If something cataclysmic happened in Syria and a lot of our foreign fighters were to return at once, resources would be stretched and I would rather have something like TPIMs in reserve than Parliament cook up some new power that had not been properly thought through.

Stop and search

When I was appointed to this job five years ago now, the key issue I suspect would have been the old section 44 stop and search power. Used quarter of a million times in 2009 alone to stop people in the street and on the rail network without any need for suspicion. Perhaps a million times in all over the 10 years from 9/11.

Not a single conviction resulted from those stops. The European Court of Human Rights condemned the power as disproportionate, and to her credit the Home Secretary – who is no lover of excessive stop and search – appeared to agree. The power was promptly repealed, and that particular grievance I hope has disappeared.

Schedule 7

We still have the Schedule 7 power of course, which is a no-suspicion power exercised by the police at the ports, in order to determine whether someone is a terrorist.

It is fair to say that this power is operated on a much smaller scale than the old section 44. Five years ago, 87,000 people were interviewed under Schedule 7. Every year since then the number has declined, to the point where in 2014/15 the number was just 34,500 – as against 245 million people who travelled through British ports in that period.

And of those 34,500 interviews, 88% were completed within half an hour.

The police are getting better at targeting their stops, as for example they get booking information further in advance. They are also adjusting their priorities, concentrating not just on inbound flights but on outbound flights where they see themselves as having a safeguarding role, for example in relation to unaccompanied schoolchildren who might be flying out to Turkey.

And unlike section 44, Schedule 7 stops play an important role in producing evidence for prosecutions, in disrupting travel for terrorism and in providing intelligence.

Despite this I have consistently expressed reservations about the details of Schedule 7.

Even if suspicion is not required at the start, there should be a time – within the maximum six hours allowed by law – when it is.

Some good reason should be needed before a mobile phone is interrogated or downloaded, and there should be strict limits on how long that data can be retained.

In making those points I have been listening to Muslim groups, including some who made helpful Freedom of Information requests, and groups like Liberty which have brought cases to challenge aspects of the power.

We have seen results. Sensible changes to the law in 2014 and again in 2015.

And this summer, the Supreme Court in a case called *Beghal v DPP* indicated its agreement with some of the points I have raised. We wait to hear what the Government's reaction will be.

This shows to me that it is worth getting involved: that in our democracy, well-founded concerns will be listened to, whether by parliamentary committees or in the courts.

Conclusion

I am always looking to improve my knowledge of Muslim communities and will happily travel anywhere in the country if there is anything you would like to show me or think I ought to see.

In the meantime, thank you again for the invitation and I would be happy to answer any questions.