

Keyboard Warriors or International Terrorists?¹

I: ONLINE CHAT AND REAL-WORLD VIOLENCE

1. Among life's current certainties is that, right now, someone in the security apparatus is fretting about online chat. Take it as read that this chat, comprising conversation, images, memes, and the sharing of documents is full of hate and violence.
2. For most, it is the closest they come to violence. The keyboard warrior who I want to discuss today is almost certainly a loner, but has found on the internet a dark and absorbing purpose, a level of excitement and belonging which is markedly different from his life in the real world².
3. In the old days, international terrorists used to be found almost exclusively within urban areas such as London or Birmingham. This was because UK adherents of violent change in Kashmir or Libya or Syria would live and recruit within traditional diaspora areas. But the keyboard warrior can live anywhere. The use of stronger investigative powers against right wing terrorism³ has resulted in even more stones being turned over.
4. Are keyboard warriors the next generation of international terrorists? It is hard to discern anything uniquely British about their focus. The motivating cause may be international jihad promoted by Islamic State, accelerationist neo-Nazism coming out of the United States, or something far less clear but which you can find promoted online, possibly involving school shooting and violence towards women.
5. In the mid-1990s, the eminent terrorism scholar Bruce Hoffman observed in religiously-inspired terrorism "a significant loosening of the constraints on the commission of mass murder" and feared more destructive and bloodier terrorist attacks from that source than arose from secular causes⁴.
6. It is true that outside Northern Ireland most fatal terrorist attacks in the UK have been Islamist, and that is likely to remain the case for some time. But there is a chill wind blowing from abroad that carries some unique fears about keyboard warriors.

¹ Presented at Chatham House event on 14 July 2022.

² "What has been seen of you tends to show isolation and an inability or unwillingness to engage with others and form relationships, and, as I have found in dealing with a number of these cases, are a common feature involving young men who – in their own homes – communicate with others of like mind to express their poisonous ideology and enter into very dangerous waters on the internet and via social media...", R v Mason Yates, sentencing remarks (HHJ Conrad QC), Manchester Evening News (1.6.22).

³ MI5 assumed primacy for extreme right wing terrorism in 2018.

⁴ 'Intelligence and Terrorism: Emerging Threats and New Security Challenges in the Post-Cold War Era', Intelligence and National Security 11, no.2 (1996): 212.

7. Take the online legacy of the Christchurch New Zealand attack in 2019. This attack by a lone livestreaming gunman were the direct inspiration for livestreamed attacks on synagogues in Germany and California later the same year, and for this year's attack on black shoppers in Buffalo, New York.
8. The individuals behind these subsequent attacks were once mere keyboard warriors, poring over livestream and glorifying the Christchurch killer, the man they knew as St Tarrant, until they too decided to go live. Absent the information they found online, it is impossible to believe that they would have carried out their attacks in the way that they did.
9. So it is understandable that UK counter-terrorism police are in the business of investigating and arresting people over online content. In last 2 years in England and Wales well over half of terrorism charge have concerned the possession or dissemination of information⁵, and it is safe to say that virtually all this information will have been obtained from and shared on the internet.
10. At the same time:
 - the UK's strong gun-control laws mean that attacks of that type are far less likely in the UK⁶.
 - Recent and ongoing government-sponsored research on convicted terrorist offenders in the UK suggests that those who were primarily radicalised online are least likely to be attackers⁷.
 - In evidence to the Intelligence and Security Committee the Director General of MI5 spoke of internet activity as "often just online espousal of violent views without any real world accompanying activity"⁸.
 - London gang violence is far more of a threat to life than lone actor terrorists who have gone down the internet rabbit hole⁹.
11. The result is uncomfortable. Terrorist arrests for online chat are growing rapidly amongst the very young¹⁰. But it is hard to shake the impression that some of this

⁵ Home Office, Statistics on the operation of police powers under the Terrorism Act 2000 and subsequent legislation (9.6.22): Table A-05a. I refer to offences contrary to sections 58 TA 2000, 1 and 2 TA 2006.

⁶ Suggesting that great attention should be given to the possibilities of 3-D printed guns: Basra, R., 'The Future is Now: The Use of 3D-Printed Guns by Extremists and Terrorists', GNET (23.6.22).

⁷ Kenyon, J., Binder, J., Baker-Beall, C., 'Online radicalisation: Profile and risk analysis of individuals convicted of extremist offences', Legal Criminol Psychol. 00:1-17 (2022).

⁸ ISC, 'Extreme Right Wing Terrorism', HC 459 (2022), p63.

⁹ 'A year of bloodshed: List of teenage homicide victims in London in 2021', Evening Standard (31.12.21). There were 30 teenage killings in London in 2021. There were only two terrorist attacks leading to deaths in 2021: the murder of Sir David Amess by Ali Harbi Ali, and the self-inflicted death of Emad Al-Swealmeen at Liverpool Women's Hospital.

¹⁰ In the last two years: 21 and 29: *ibid*, table A-10.

behaviour may be what Professor Maura Conway describes as ‘showboating’ – showing off, without any intention to commit real world violence¹¹.

12. This begs the question, to what extent are keyboard warriors really terrorists at all.

II: TERRORISM

13. As is well-known, and belatedly celebrated in contrast to the US position, the UK has a wide threat-neutral definition of terrorism: in summary, using or threatening serious violence to intimidate the government or the people in order to advance a political, religious, racial or ideological cause.

14. But, as Professor Jeremy Waldron puts it, what matters is what we do about terrorism, not how we define it.¹²

15. The UK has been in the forefront of recognising extreme right wing terrorism, and has banned a slew of right wing terrorist groups such as National Action and Sonnenkrieg Division.

16. Added to this there is the deep shoreline of precursor offences which criminalise behaviour well before it turns to violence, and allow counter-terrorism police to intervene at an early stage. These include the possession and exchange of bomb manuals and terrorist publications to which the internet is so well suited.

17. The result is that keyboard warriors who promote violence against mosques or synagogues or army bases will readily fall to be investigated on suspicion of committing terrorist offences.

18. The problem is that the UK’s wide terrorism definition, and range of precursor offences, net some rather small fishes. I have referred to arrests of children. There are also many cases of autism and poor mental health.

19. In principle this should come as no surprise as terrorist legislation is directed at conduct, rather than reserved for use against a pre-determined set of individuals.

20. To take the famous case of Jihadi Jack, his parents committed a terrorist funding offence by sending money to their son but had no intention to aid a proscribed organisation¹³. It would be a stretch to describe them as terrorists standing alongside Robespierre, Irish dynamiters, Russian anarchists, Olympic hostage-takers, mujahideen, and desert emirs¹⁴.

¹¹ Conway, M., ‘Determining the role of the internet in violent extremism and terrorism: Six suggestions for progressing research’, *Studies in Conflict and Terrorism*, 40(1), 77-98 (2016).

¹² ‘Torture, Terror and Trade-Offs’ (Oxford, 2010).

¹³ *R v Lane and Letts* [2018] UKSC 36.

¹⁴ Anderson, D., ‘Shielding The Compass’ (2013).

21. Possession of information that is likely to be useful to a terrorist, such as the Anarchists Cookbook, can be committed without proof of any terrorist intention¹⁵. Failing to notify the police of an intended terrorist attack is an offence that can be committed by anyone, terrorist or not¹⁶.
22. For speech offences, such as encouraging terrorism, the harm feared is likely to proceed from the recipient of the encouragement rather than the person using the words.
- In the case of the Poway Synagogue attack in California in 2019, the attacker pre-announced his plans on the platform 8Chan.
 - An unnamed individual responded by telling him to “get the high score”¹⁷.
 - In UK those four words could well amount to a terrorism offence¹⁸. Morally objectionable, hateful, antisemitic, at best indifferent to harm, yes; but those words did not transform that keyboard warrior into a terrorist.

IV. THE EASE OF ONLINE TERRORISM

23. The fundamental problem is that the internet has lowered the entry barrier to terrorist offending¹⁹.
24. In the old days it was only as a member of a clandestine organisation that an individual could get access to know-how, propaganda, and weaponry. UK law is built on a response to armed group activity in Northern Ireland, hence the prominence given in the Terrorism Acts to proscribed organisations both in the UK and overseas.
25. As part of an organisation, the terrorist could aspire to threaten the security of the population or the state itself. For this reason, counter-terrorism has always been considered an aspect of national security²⁰.
26. To degrade the ability of the state to control or manage the conditions that citizens feel are necessary for everyday living²¹, the terrorist had to be a committed individual adopting “terrorism as a career, a culture and a way of life”²². Some assistance can be derived from UK definition of terrorism: a terrorist act is one that

¹⁵ Section 58 Terrorism Act 2000: see Hall, J., *Terrorism Acts in 2020* at 7.27.

¹⁶ Section 38B Terrorism Act 2000.

¹⁷ Evans, R., ‘Ignore the Poway Synagogue Shooter’s Manifesto: Pay Attention to 8chan’s /pol/ Board’ (Bellingcat, 24.8.19).

¹⁸ Section 1, Terrorism Act 2006.

¹⁹ Pantucci, R., and Ong, K., ‘Persistence of Right-Wing Extremism and Terrorism in the West’ (International Centre for Political Violence and Terrorism Research, 2021)

²⁰ ‘The main threats to national security that MI5 counters are terrorism, espionage, cyber threats and the proliferation of weapons of mass destruction’: MI5 Website (last accessed 7 June 2022).

²¹ Ward, R., Jones, R., ‘National Security: Law Procedure and Practice’ (Oxford, 2021) at paras 1.37-1.38, 1.53. In this vein, Professor Waldron referred to terrorism as risking “a state or condition that governments cannot afford to let their populations fall into or languish in for long”, *Torture, Terrorism and Trade-offs*, *supra*.

²² Burleigh, M., *Blood and Rage: A Cultural History of Terrorism* (Harper, 2009).

is done for the purpose of advancing “a cause”, a word which implies some seriousness, commitment, and longevity.

27. But very little of this applies to keyboard warriors.

28. Firstly, whilst keyboard warriors could, aggregated together, be viewed as a movement or network²³, brand²⁴, or wave²⁵, they do not form part of a quasi-military organisation or militia who are ready to overthrow the state or terrorise the population²⁶.

29. Terrorism studies have an interest in drawing attention to the collective phenomenon but most online groupings are purely conceptual²⁷. Enthusiastic conclusions drawn from disparate online actors across the world can imply a risk of actual violence in the UK which is not justified by the facts, stoke fears about rising levels of terrorism, and lead to demands for the inclusion of new categories of terrorist ideology, such as inceldom, because they are visible online²⁸.

- The fact that they are individuals may explain why adherents of violent and racist Siege culture have failed to promote a successful terrorist campaign as opposed to seemingly isolated acts of violence²⁹.

30. Secondly, the online world is inimical to the promotion of sustained causes, but stuffed with shifting, hyped and contradictory positions. It is little wonder that, in the absence of a coherent ideology, violent aspirations are often characterised more by a desire for personal notoriety in the company of previous attackers³⁰ than for societal change.

²³ Upchurch, H., ‘The Iron March Forum and the Evolution of the "Skull Mask" Neo-Fascist Network’, CTC Sentinel 14:10 (2021).

²⁴ Koehler, D., ‘When branding turns toxic: a theoretical framework for modern extreme-right brand networks’, Behavioral Sciences of Terrorism and Political Aggression (2022).

²⁵ Auger, Vincent A. “Right-Wing Terror: A Fifth Global Wave?” Perspectives on Terrorism 14, no. 3 (2020): 87–97.

²⁶ Although the Terrorism Act 2000’s definition of organization is wide (see s121: “any association or combination of persons”), I am grateful to Professor Clive Walker QC for pointing out the argument that lonely male keyboard warriors could simply be considered a ‘section of the public’ (s1).

²⁷ Jarvis, L., ‘Critical terrorism studies and the far-right: beyond problems and solutions?’, Critical Studies on Terrorism, 15:1, 13-37 (2022)

²⁸ Similarly, an inadvertent consequence of proscribing groups whose presence in the UK is almost wholly online - Sonnenkrieg Division, Feuerkrieg Division, Atomwaffen and The Base – is to give an impression of terroristic boots on the ground that is far from the case.

²⁹ Lee, B. (2021). Think global, act local: Reconfiguring siege culture. Crest Research. <https://crestresearch.ac.uk/comment/think-global-act-local-reconfiguring-siege-culture/>. This failure has led to attempts to build coalitions amongst the far right: Shadnia, D., Newhouse, A., Kriner, M., Bradley, A., ‘Militant Accelerationism Coalitions: A Case Study in Neo-Fascist Accelerationist Coalition Building Online’ (Tech Against Terrorism & Centre on Terrorism, Extremism, and Counterterrorism, 2022).

³⁰ Johnson, B., Feldman, M., ‘Siege Culture After Siege: Anatomy of a Neo-Nazi Terrorist Doctrine’ (ICCT, The Hague, 2021)

- The remorseless fanatic, whose commitment to violence is a source of legitimate fear and the obvious object of counter-terrorist powers, is to be contrasted with the child or young adult whose ideological commitment, ripped from the internet, is skin-deep or a passing fancy or adolescent reaction to the world.
- It is little surprise that police struggle with mixed uncertain and unstable ideologies that may be little more than window dressing for personal grudges or personal inadequacy³¹.

31. Thirdly, the keyboard warrior is nothing without the internet. Remove this channel of communication and he is nothing. The online world is not simply a mode of pursuing violent ideological or religious change, which, if frustrated, will lead to alternative terrorist conduct by a committed individual. Rather it is the sole means by which the keyboard warrior approaches the condition of being a terrorist.

IV. LEGITIMACY AND PROPORTION

32. It should by now be clear that there is nothing unlawful about the use of counter-terrorism laws against keyboard warriors, even if they cannot really be described as terrorists.

33. But this gives rise to a problem of legitimacy. If terrorism laws are used too readily on the basis of online chatter:

- It calls into question the use of special powers in the minds of the public and, as I have witnessed, in the minds of police officers required to exercise those powers.
- Juries may be reluctant to convict defendants of terrorism offences, even where the elements of the offence are made out, on the basis that the defendant, whatever he or she is, is not a terrorist³².
- Terrorism can find itself drawn into definitional and cultural debates based less on the real world threat and more on the topic of visible internet ideology and extremism³³.

34. It also gives rise to adverse practical consequences.

³¹ Waldron, J., supra, referred to a terrorism as a ‘therapy for the perpetrator’.

³² In mid-June 2022 Richard Smith was acquitted at the High Court of Edinburgh of preparing terrorist acts, and possession of information likely to be useful to a terrorist. He had a stash of explosives, and vast amounts of information on manufacture of weapons and firearms, as well as documents which were neo-Nazi, anti-Muslim and racist. According to the BBC, his defence counsel addressed the jury as follows: “He has Asperger’s. He has autism. He may have poor communication skills. He may appear to be a bit pathetic. But he is not a terrorist” (BBC, 14.6.22).

³³ For a perspective on these debates see Cottee, S., ‘What progressive extremism experts get wrong’ (Unherd, 27.6.22).

- Precious front-line counter-terrorism resources may be wasted on investigating individuals who present far less threat to the public than knife-carrying gang members.
- Use of the counter-terrorism Pursue model, involving sensitive intelligence, ‘need to know’, the race to secure evidence for criminal proceedings before it is lost or destroyed, and adversarial proceedings involving the use of lawyers, may preclude other forms of early intervention.

CHILDREN

35. The consequences of deploying counter-terrorism powers only against those who match the image of the ‘terrorist’ must be squarely acknowledged. Irrational discrimination, with bias against racial or religious minorities based on whether a suspect fits into certain stereotypes, would be all too likely. For this reason, using the identity of “terrorist” as a framing mechanism³⁴ to guide the use of counter-terrorism powers, could not be advised.
36. However, unless a mechanism is found to filter out at least some of their online conduct, the mismatch between keyboard warriors and real terrorist will continue to feed through into the arrest and prosecution figures.
37. One mechanism, striking at the heart of this mismatch, could involve the way in which suspected online offending *by children* are treated by the counter-terrorism machine.
38. There are four coherent reasons for approaching online behaviour by children differently.
39. Firstly, whatever ideology is in play, there is less reason to suppose that a child’s online communications demonstrate a long-term commitment to altering the fabric of society in the name of an ideological religious or racial cause. Adolescents are in a state of transition³⁵.
40. Secondly, the excitement of impressing peers and the disinhibiting nature of anonymity³⁶ means that fewer secure inferences can be drawn by adult investigators about what online communications show.
41. Thirdly, there is a special obligation within the criminal justice system, recognised nationally³⁷ and internationally³⁸ to consider the long-term prospects of children.

³⁴ Cf. Greene, A., ‘Defining Terrorism: One Size Fits All?’, ICLQ vol 66, April 2017 pp 411–440.

³⁵ CRC Committee, *General Comment No. 12: On the implementation of the rights of the child during adolescence*, CRC/C/GC/20, 2016, paras 9-10

³⁶ Panctucci and Ong, *supra*.

³⁷ Code for Crown Prosecutors, para 4.14(d); Lord Advocate’s Guidelines on Offences Committed by Children (Jan 2022); Public Prosecution Service, Guidelines for the Prosecution of Young People (Dec 2021).

One might add that society at large owes a particular responsibility for having offered up children as experimental subjects in the great internet experiment of the past 20 years.

42. Fourthly, the fact that children charged with online terrorism offences are routinely granted bail, and if convicted are routinely given non-custodial sentences³⁹, strongly suggests that the authorities do not consider them a threat once their use of the internet has been disrupted. This is no doubt because children are unlikely to be dedicated terrorists for whom the internet is only one of several means of continuing their campaign.
43. Taken together these reasons tell against the 'let it run' model of counter-terrorism investigations⁴⁰.
44. Gathering evidence with a view to prosecution is less of a priority. The instinct of the authorities should be to intervene protectively before the child gets in too deep. Disruption and the early involvement of parents, schools, health staff and local authorities to prevent recurrence may be more useful to society at large than criminal proceedings.
45. Recognising that internet can enable children to commit terrorism offences of the utmost gravity⁴¹, and therefore taking a precautionary approach, it is worth considering an alternative model for dealing with suspected terrorist communication offences where the suspect is a child.
46. Under this alternative model, the presumptive position of investigative and prosecutorial bodies could be to treat online activity by a child as a matter for immediate disruption⁴² rather than investigation with a view to prosecution except where:
 - (a) The suspect is a member of or aligned to a proscribed organisation;
 - (b) The conduct concerns a matter of national security, such as an attempt to obtain weapons of mass destruction; or
 - (c) There is intelligence that the child or an associate has taken real world steps towards violence;
 - (d) The child has reverted after a previous disruption.

³⁸ Convention on the Rights of the Child, Art.40(1).

³⁹ Home Office, Statistics on the operation of police powers under the Terrorism Act 2000 and subsequent legislation (9.6.22): Table C-04 shows a rise in the use of non-custodial sentences for terrorism offences which is only explicable by reference to the number of children now being prosecuted.

⁴⁰ By this model, if the authorities identify a threat of terrorism, the individual or group concerned are left, within the bounds of public safety, to proceed with their plans and to generate incriminating evidence, until the point of arrest, followed by prosecution

⁴¹ RXG, *supra*.

⁴² In some instances, accompanied by a measure of compulsion through imposition of a civil order such as a civil behaviour order. The adequacy of civil orders is currently under consideration.

CONCLUSION

47. The question of whether keyboard warriors are really “terrorists” is unlikely to provide a secure or fair basis on which to exercise strong counter-terrorism powers, but is a useful touchstone when contemplating the rate at which children are being arrested. There are good reasons why police and officials should treat children’s purely online conduct, even if they are strictly speaking within the UK’s wide terrorism offences, as requiring an immediate and disruptive rather than investigate-to-prosecute approach.

JONATHAN HALL QC
INDEPENDENT REVIEWER OF TERRORISM LEGISLATION