

"Terrorism and National Security: Internal Threats and Internal Fears" (Policy Exchange's John Creaney QC Memorial Lecture, 19 May 2025)

Introduction

1. This lecture is in three parts. In the first part I consider an issue prompted by the atrocious Southport attack of last July: how should we distinguish between matters affecting national security, and those matters however terrible that do not? In Part 2 I look at convergence between terrorism and threats from nation states. In Part 3 I consider national security and judicial interventionism.
2. The Reviewer of Terrorism Legislation, now the Independent Reviewer of Terrorism and State Threats Legislation, was once described by my predecessor Lord Anderson as the gadfly on the hide of the beast¹. Certainly, the Reviewer is and should be seen as an irritant. And since I have been lodged, with a room in the Home Office when I need it, in very direct contact with officials and police for over 6 years now, my role should possibly be seen as an irritant in a more intimate place. Perhaps the independent tic.
3. To deliver this lecture at Policy Exchange, a vigorous and dynamic think tank which leaves others in its wake, is a pleasure. I wish there were more like you. You do not confine yourselves as others do waving a flag, or identifying concerns, raising issues or reaching the leaden conclusion that matters are (terrible word) problematic – rather you make concrete proposals which I think is the acid test of policy analysis.
4. It is no coincidence that my very first speech as reviewer concerned Policy Exchange's concrete proposals on treason – and as it happens, I vigorously disagreed.
5. Let me say something about John Creaney QC a prosecutor and man of stature whose eminent career spanned the entirety of what you might call the early modern period of UK terrorism.
6. As senior prosecuting counsel in Belfast, a position requiring guts and entailing personal sacrifice, his first terrorism prosecution was of men from the Ulster Volunteer Force who murdered a Catholic Peter Ward in 1966. This was a full 34 years before UK had its first permanent anti-terrorism legislation the Terrorism Act 2000. His last was the Al Qa'eda figure Abba Boutrab. A raid of Boutrab's Belfast home in 2005 led to the discovery of plans for mini bombs to be smuggled onto aircraft: a chilling foreshadowing of the airline bomb plot disrupted by police and MI5 the following year under Operation Overt. It is an honour to speak in his memory.
7. It is true that terrorism in Northern Ireland can sometimes seem remote to those living in GB. But it allows comparisons and reflections across the whole United Kingdom and is a sound rebuttal to anyone short-sighted enough to have thought that counter-terrorism began as a war on Muslims.

Distinguishing Threats from Fears

¹ 'Attacks in London and Manchester, March-June 2017: independent assessment of MI5 and police internal review' (December 2017).

8. As I set out in my Southport review for the Home Secretary published in March, there were good reasons not to change the terrorism definition to encompass extreme violence for its own sake. Many of these reasons were technical and operational and none the worse for that. But that does leave a larger question. Surely the Southport attack was of a different order from ordinary murder, requiring a different response?
9. There are two key aspects to this. Firstly labelling. Secondly, what I would call apt response.
10. A partial answer to the labelling aspect is that harm to national security is whatever the duly elected government of the day decides it to be. In a famous case in 1964 the Law Lords held that the safety and interests of the UK means the objects of state policy determined by the Crown on the advice of Ministers. So the Campaign for Nuclear Disarmament activists who tried to shut down the runway at RAF Wethersfield in Essex were not permitted to argue that UK security was better off without US bombers².
11. Of course, national security interests go deeper than what government policy determines it to be. Terrorism for example is axiomatically a matter of national security. But Lord Hoffmann put it trenchantly in a judgment delivered one month after 9/11 attacks³. "There is no difficulty about what 'national security' mean. It is the security of the United Kingdom and its people." I will need to return this judgment in Part 3.
12. Three years later in the Belmarsh detainees case, Lord Hoffman referred in Burkean terms to the UK as a social organism which, "more than any other in the world, has an unbroken history of living for centuries under institutions and in accordance with values which show a recognisable continuity"⁴.
13. However, this observation was used to tee up his possibly overblown punchline that bad terrorism laws were more of a threat to the life of the nation than terrorism itself⁵. The Law Lords, in striking down detention without trial, were therefore in a sense protecting national security against the views of the government.
14. We see here the contours of a debate familiar to this audience. On matters of policy, particularly those touching the life of the nation, who decides? Who decides what national security is. Is it decided by the Executive, by Parliament, by Judges, or perhaps by treaties or norms of international law?
15. In its 2016 Handbook on the National Security System, the Department of the Prime Minister and Cabinet of New Zealand included protecting the natural environment as amongst seven national security duties⁶. But as someone wryly remarked there are limits to what the intelligence agencies can do.

² Chandler and ors v DPP [1964] AC 763, recently followed in Katrin Ivanova & Ors v R [2024] EWCA Crim 808, concerning the Roussev trial considered below.

³ Rehman [2001] UKHL 47.

⁴ A (Belmarsh detainees) [2004] UKHL 56 at 91.

⁵ At 97.

⁶ National Security Systems Directorate of the Department of the Prime Minister and Cabinet, National Security System Handbook (DPMC, August 2016).

16. Sometimes it requires real work to discern the principled basis on which terrorism is labelled as terrorism. Take lone actor attacks. A 20-year-old carries out a knife attack to advance a terrorist cause. What is the difference between that and a savage stabbing of a stranger by a mentally deranged individual, or a young boy killed by a rival drugs gang? The immediate harm to life and limb is the same, and each of these events may create concentric circles of fear that affect what Professor Waldron called “cheerful spirit of security”⁷. But only the terrorist attack is a matter of national security.
17. The last completed terrorist attack in this country was by a neo-Nazi called Callum Parslow. He stabbed a recent migrant in the neck, fortunately not fatally, at the Pear Treat hotel in Worcestershire in April 2024⁸. I wonder who has heard of this attack. It had far less national attention, and causes I suggest less fear, than Axel Rudakubana’s attack at Southport.
18. The conventional answer is that person advancing a cause using violence is seeking to take wrest control from voters. Left unchecked, the views of men and women of violence have to be accommodated in the life of the community not because they are right but because they are violent⁹. Take Northern Ireland where the fear of violence affected and the fear of a return to violence still affects policy decisions.
19. This loss of democratic control is the essence of an attack on national security, and distinguishes, I think, Rudakubana’s case, or a case of rape or murder or school shootings, from terrorism. Of course, the fear of being murdered or raped may result in policy decisions being made, such as additional police powers or harsher penalties, but even if those policies do not prove to be effective, they are freely chosen.
20. This is not a complete answer on the question of lone actors. Realistically a single lone attacker shouting ‘Allahu akhbar’ is not going to materially advance the cause of Sharia law in the UK or change government policies on Gaza. Whatever Callum Parslow’s stated aims in stabbing an innocent migrant, we are not going to indulge in forced repatriation of non-Whites and the establishment of an Aryan nation.
21. The best I can do here is to point to the collective. An attack by a terrorist group, or a nation State such as Iran, is an attack by a collective on the democratic collective. Similarly, lone actors with the same ideological or religious commitments may in aggregation appear as a gathering storm cloud whose collective effect cannot be ignored, can affect how we act collectively as a democracy, and therefore can be considered a threat to national security.
22. The second aspect to this question concerns the apt response. This is a major consideration, and on its own would amount to the positivist view that the word terrorism does no more than describe the set of problems for which a counter-terrorism response is appropriate.

⁷ Waldron J, *Terrorism and the Uses of Terrorism* Journal of Ethics 8: 5-35 (2004). And not being labelled terrorism it does not get such a share of resources.

⁸ CPS, ‘Neo-Nazi who stabbed victim twice is jailed for life’ (17.1.25).

⁹ Hence in its 1998 consultation on terrorism legislation, the government said that it did not believe special powers were needed to deal with matters of that sort where there is no intent to disrupt or undermine the democratic process: Cm 1478 at para 3.16.

23. This is necessarily intuitive in large measure. Poverty is an ill but if we look to government for assistance, we do not look to MI5 and CT Police. Derbyshire police flying drones in the countryside above pandemic-defying walkers is perhaps a more general example of the wrong response by the wrong body¹⁰.
24. Of course, the apt response approach has its limitations.
25. Firstly, as Jonathan Sumption has noted, society is sometimes too ready to invoke the protection of the Leviathan against ordinary fears¹¹. Alternatively, it could lead to a calcification on the basis that this is how we have always done things and a failure to appreciate new threats. Thirdly, the sense that really serious things deserve really serious treatment can lead to the repackaging of powers created for counter-terrorism for use in other areas of life of high public concern. It is a little remarked fact that the government's Border Security Immigration and Asylum Bill is replete with preparatory offences derived from terrorism legislation with nothing like the equivalent safeguards¹².
26. I now need to refer to State Threats. The authorities are more sensitive to the actions of Russia China and Iran on British soil than are members of the public. I suspect that Russia's radiation attack in 2006, its chemical weapons attack in 2018 attack, and Iran's murderous plotting from Salman Rushdie to the present day still do not register like terrorism in the consciousness of ordinary citizens.
27. The authorities are constantly managing expectations. They want to devote time and resources to State Threats. The public fears terrorism more and expects resources to be dedicated to stopping vehicle rammings, stabbings and explosions.
28. The best evidence comes from the Director General of MI5 himself. In his annual threat report in 2021 he started with State threats but then turned to "terrorism – still the national security threat of greatest concern to the public". The goal was he said to build the same public awareness of and resilience against State Threats as against terrorism¹³. In 2022, Sir Ken dwelt greatly on the malign actions of States but observed that getting ahead of terrorist plots "was still the first thing the British public expects of us"¹⁴.
29. Why is there this mismatch? Some of this is obvious. Terrorism operates at the psychological level and is famously, many people frightened, not many people dead. A terrorist who failed to deliver a message would have failed, as his action could have done nothing to advance a cause. On the other hand, crudely put, States tend to act in the shadows behind cut-outs and proxies. Our intelligence agencies are bound to know more than the general public.
30. Moreover, whereas the public associates terrorism with bombs and death¹⁵ the malign activities of states are harder to associate with immediate harm. Take

¹⁰ BBC News, 'Coronavirus: Peak District drone police criticised for "lockdown shaming"' (27.3.20).

¹¹ A State of Fear in the Challenges of Democracy (Profile Books, 2025)

¹² For example, clause 16 of the Bill (collecting information for use in immigration crime) is clearly adapted from section 58 Terrorism Act 2000.

¹³ 14 July 2021.

¹⁴ 16 November 2022.

¹⁵ University of Birmingham, 'Collective perceptions of security threats: an evidence-based political debate is needed' (15.3.24).

long term influence operations conducted by co-optees of Chinese intelligence agencies, or intimidation of dissidents (sometimes referred to as transnational repression), or Russian cognitive warfare involving coffins deposited under the Arc de Triomphe or the spray-painting Parisian synagogues. Some may associate State Threats as taking place within or between certain diaspora groups and therefore not a threat to the population at large. Perhaps there is something both glamorous and faintly comic about foreign spies that affects how we perceive it.

31. Seeing eye to eye may also be difficult between the authorities of different states. Even close allies may have different views about how to deal with the principal sources of State threats. Different countries will have different interests and dependencies which will inevitably colour their assessments and responses to State Threats. This means a lack of shared consensus compared to a unified response to Al Qa'eda and Islamic State.
32. Will the public view change? Well it did for terrorism. Even after the events of 9/11 and 7/7 there was still a latent scepticism about the terrorist threat to the UK. Many here will remember the reactions to the Forest Gate raid of 2006. It was the patient detective work led by Peter Clarke and others, and careful prosecutions of high-profile Islamist terrorist plots that brought the threat home to the public. Perhaps it takes being closer to the front line, like Poland.

Convergence

33. In the second part of this talk I want to suggest that terrorism is showing signs of convergence with State Threats. Whilst it remains important to distinguish between them, I think it is inevitable that State Threats will start to resemble contemporary types of terrorism in various ways.
34. In December last year, the UK Home Secretary asked me to write a report on what countering State Threats could learn from counter-terrorism. In particular, what legal measures would be useful against highly aggressive State bodies such as Iran's Islamic Revolutionary Guard Corps. I was surprised at how much there was to learn.
35. Let me give a less obvious example. The National Security Act 2023 tackles malign foreign actors targeting the UK through their activities on UK soil, or through their activities abroad.
36. But the recent prosecution of 6 Bulgarians working for Russian spymaster Jan Marselek¹⁶, shows that State Threat actors may be willing to use the UK as a spy base to carry out attacks abroad. The fact that they used a guest house in Great Yarmouth with comic overtones of Fawlty Towers perhaps demonstrates my point about looking at the comic aspect of foreign spies, though the activities of these defendants were extraordinarily serious. As it happens not every aspect of the 2023 Act is really set up to deal with activities such as these.

¹⁶ Roussev and others, Central Criminal Court (2025).

37. In terrorism, by contrast, there has long been an assumption of criminal jurisdiction in relation to overseas attacks. That is one example of how State Threat laws may need to adapt, by expanding the scope of liability¹⁷.
38. Secondly, States often use proxies to carry out sabotage or cognitive warfare or assassination. This may be because their intelligence officers have been expelled or prevented from entering the UK. Partly it is because States quickly adapt to what works: the Foxtrot network is a recently sanctioned organised criminal group which frequently employs teenagers for attacks and carries out deadly work for Iran¹⁸. Partly because the internet offers a perfect way of directly recruiting tasking and paying individuals.
39. This adds to the convergence effect. Young people who might once have been attracted to a terrorist cause are now willing to carry out sabotage for Putin's Russia - they are recruited in exactly the same way, by groups operating on Telegram. Pro-Russia groups might pose as protectors of Christian civilisation, finding ideological affinity with lone actors. The so-called sextortion tactics of accelerationist groups like the 764 network¹⁹ could be used to obtain Russian kompromat and force individuals to carry out tasking.
40. Legal measures that have proven useful in dealing with domestic terrorist groups may therefore need to be adapted for groups involved in state threats to stop them promoting themselves and inviting support online and offline.
41. In addition, at a psychological level, some State Threat actors are willing to take extraordinary risks, in ways as irrational and incomprehensible as building bombs in their kitchens. Take, for example, Daniel Khalife, the soldier who was determined to spy for Iran and later broke out of prison²⁰. Such individuals will need to be managed and their risk contained once released from prison – there are lessons to be learnt from managing terrorist offenders.
42. I would however caution against simply merging laws against State Threats with laws against terrorism. There are fundamental differences. Firstly, the right approach to a terrorist group is to destroy it. This is not an option where adversary is a State or State entity. Secondly, although States can use terrorist tactics, they can cause harm to national security in less explosive ways than terrorism.
43. Low level sabotage and disinformation is far from the terrorism threshold but could in time have a greater impact on national security. For example, it is obvious that disinformation measures and cognitive warfare could target how voters think about Ukraine and rearmament. The effect on the battlefield, and in turn on the national security of the UK and its allies could be incalculable.
44. This is why I do not consider State Terrorism is a useful concept - it does not accurately describe the threat posed by States. It is also apt to mislead the

¹⁷ In particular, under section 18 (acts preparatory).

¹⁸ Foreign Commonwealth and Development Office, 'UK sanctions Iranian organised crime network' (Press release, 14.4.25); US Department of the Treasury, 'Treasury Sanctions Swedish Gang and Leader Serving Iranian Regime' (Press release, 12.3.25).

¹⁹ US Department of Justice, 'Member of the 764 Criminal Enterprise Pleads Guilty to Racketeering Conspiracy and Other Charges' (Press release, 12.2.25).

²⁰ CPS, 'Former soldier who escaped prison convicted of spying for Iran' (Press release, 28.11.24).

public and therefore undermine the call for resilience and awareness, especially on the parts of those who should know better: the money-men helping oligarchs; the ex-military working at private investigators getting involved in hostile surveillance²¹.

Judicial Interventionism

45. I turn now to the question of judicial interventionism in matters of national security. As I wrote in a paper published last year, one of the effects of the unanimous decision on Shamima Begum's case in the Supreme Court²² has been to instil great diffidence as to whether and how judges can disagree with the executive on matters of national security²³.
46. In Begum, the Supreme Court confirmed the judgment of Lord Hoffmann I referred to earlier. As a question of law this phrase means "the security of the United Kingdom and its people." But whether something is in fact in the interests of national security is a matter of judgment and policy entrusted to the executive²⁴.
47. How far does this go? Evaluating a risk of a future terrorist attack is one thing. What about the facts on which an evaluation is based? What if the question is not whether on established facts an individual poses a risk to the public, but whether those facts are real. For example, did a spy communicate with his handler or not? Did he travel to a safe house or not?
48. The effect of Begum led a distinguished and experienced judge to openly question what he would have done if he found the appellant to be a credible witness of truth. Did the judge have the right to overrule MI5's factual assessment that the appellant was a spy²⁵? In a judgment delivered last week the Supreme Court returned once again to this issue²⁶.
49. Debates about judicial interventions are usually couched in terms of overreach, the subject of the Creaney lecture in 2014 by Sir Alan Moses²⁷ and of course a subject brilliantly developed at Policy Exchange.
50. As it happens, I agree with much of what Professor Richard Ekins has written. The point is fairly made that excessive intervention, particularly when driven by judge-made principles of human rights law, can remove important policy matters from Parliament where they should be debated, to courts which lack the information and expertise to strike the balance between competing interests of individuals and the public as a whole.
51. But I want to explore what happens if judicial intervention shrinks to a nothing in relation to matters of national security. There are, I believe, implications for Parliamentary sovereignty.

²¹ See Home Office, 'Security professionals urged to tackle threats from state actors' (News story, 20.1.25).

²² [2021] UKSC 7.

²³ Hall, J. (2024). National Security and Judicial Review. *Judicial Review*, 29(3), 145–150.

²⁴ Begum, at para 56, citing Lord Hoffman in Rehman at para 50.

²⁵ C2 v SSHD, Appeal No: SC/166/2019 (17.5.24) at 111, Jay. J.

²⁶ U3 v Secretary of State for the Home Department [2025] UKSC 19.

²⁷ 'Hitting the Balls out of Court: Are Judges Stepping Over the Line?' (16.2.14).

52. In a nutshell, if judicial oversight does not comprise the correcting of errors by powerful ministers, then it may be harder for governments to pilot extraordinary measures through Parliament in response to national security threats.
53. I am not thinking about an emergency situation such as war. Of course even in times of emergency courts have a role to play²⁸ – and it could be argued that in the face of Covid regulation and its effects on young people civil society was far too passive.
54. I am thinking about the measures that may one day be needed to save democracy from itself. What do I mean? I am referring to counter-subversion.
55. That is, to slow-burn damage to national security rather than the more catastrophic potential of terrorism where, as is apparent from the Supreme Court's judgment last week, a precautionary approach is necessary²⁹ and where the constitutional aspects are starker because it is the first duty of government, and not the courts, to keep the population safe from attack³⁰.
56. The term subversion used to be central to internal security. The Maxwell Fyfe directive of 1952 defined MI5's task as defending the realm from internal dangers arising from actions of person and organisations which may be judged to be subversive of the State³¹.
57. A declassified Top Secret memo from 1972 contains the terms of reference for an Inter-Departmental Group for Long-Term Intelligence Reports on Subversion In Public Life: to collect intelligence on threats to the internal security of Great Britain arising from subversive activities³².
58. But the terminology of subversion did not find its way into the Security Service Act 1989; and the very concept of counter-subversion fell out of favour, associated with McCarthyism and some unjustified infiltrations of domestic protest groups by undercover police.
59. If I was a foreign intelligence officer of course I would meddle in separatism, whether Scottish independence or independence of overseas territories or Brexit. I would encourage extreme forms of environmentalism, hoping that policies generated would damage my adversaries' economy or at least sow discord or hopelessness.
60. I would sponsor Islamism and Islamist MPs and contentious foreign policy issues such as Gaza within politics. Social media would be a delightful playground for wedge issues. I would certainly amplify the lie that the Southport killer was a Muslim who arrived on a small boat, and relish where an attacker had previously claimed asylum.
61. I would ensure that the UK hated itself and its history. That the very definition of woman should be put into question, and that masculinity would be presented

²⁸ Famously illustrated by Lord Atkin's dissent in *Liversidge v Anderson* [1942] AC 206.

²⁹ U3, *supra*, at para 61, per Lord Reed, "An error in judgement could have catastrophic consequences".

³⁰ Para 67.

³¹ Undercover Policing Inquiry Interim Report at Chapter 4.2.

³² Inquiry document, UCPI0000035248.

as toxic. That White people should be ashamed and non-White people aggrieved. I would promote anti-Semitism.

62. My intention would be to cause both immediate and long-term damage to the national security of the UK by exploiting the freedom and openness of the UK by providing funds, exploiting social media, and entryism. There might be some immediate term gains – for example forcing the relocation of a nuclear submarine base, and some longer terms gains, such as loss of trust in a government trying to raise defence spending. Or it might allow me to position Russia as a true defender of crumbling Western civilisation.
63. Please note that I am not saying that I have evidence of foreign involvement in any of the topics I have just listed. But there is no harm in thinking like an adversary.
64. One answer is the new National Security Act 2023 and the offence of foreign interference. But proving that the Foreign Hand is at work can be very difficult³³.
65. Another answer, advanced by MI5's Director General in 2021 is social resilience against disinformation³⁴, or you might even say a Cold War mentality that sniffs out subversion.
66. Truth and resilience require a degree of trust in institutions where the UK is still lucky. The Royal Family, the jury system, the BBC (I think of its VE day coverage, as well as the snooker), the police and security services – domains of institutional trust in which the UK has incalculable advantages compared to the US.
67. A further set of answers must deal with life online. This would require an entirely separate lecture, but in headline, and for multiple reasons, content moderation (that is, removing, blocking, limiting, access to certain content) is never going to sufficiently address the unprecedented access that the internet accords to impressionable minds.
68. Major steps to limit child access are required. Whether banning access to social media, as Australia is pioneering, or (in my dreams) limited functionality BBC phones being provided free to all children under 16, distributed by the NHS. The Online Safety Act 2023 is not the complete answer, and we must also be careful not to learn the wrong lessons from the TV series Adolescence.
69. But what if it was necessary to go further? What if it was necessary to investigate, intrusively, the source of fundings for protest movements³⁵? What if it becomes desirable to pass a law banning Muslim Brotherhood candidates from standing in elections? Or to bring forwards a law, in the interests of national security, banning extremism or subversion?
70. I recall the excellent Colin Cramphorn memorial lecture delivered in this very room of the French Interior Minister Bruno Retailleau on the threat of Islamism. It's one thing to take these steps in an autocracy but quite another thing in a

³³ Hall, J., 'The Foreign Hand and Foreign Interference' (RUSI, 23.7.24).

³⁴ Annual threat update, *supra*.

³⁵ This is not outlandish. In 'Operation 4', the Bulgarian spies (Roussev and others, *supra*) planned a false protest outside the Kazakh embassy in order to affect the relationship between Russia and Kazakhstan: sentencing remarks of Mr Justice Hilliard, Central Criminal Court, 13.5.25.

democracy like France or the UK. Our laws are based on general principles that apply to individuals equally; and so if the Muslim Brotherhood was to be banned the basis would have to be that it met a general criterion such as terrorism, or legal criteria that we have yet to invent – separatism, or hateful extremism, or subversiveness.

71. There are very many difficulties in achieving an appropriately clear legal test, and the road to a legal definition of extremism is littered with wreckage.
72. But my modest point today is that, if a sufficient definition could be found, then new laws would need sufficient safeguard in the form of judicial intervention – not cowed by excessive deference to the executive but ready to correct things when they go wrong.
73. The history of national security legislation is that measures generally become tougher and more imaginative. I do not doubt that this is sometimes necessary and I think it is inevitable that the National Security Act 2023 will only be a starting point.
74. When future governments propose exceptional measures in the national security field, the willingness of judges to disagree with the executive should be a comfort to Parliamentarians worried about the leaching away of precious rights.
75. So my point today is not about the rule of law, or protection for the rights of the individual. It is about policy choices. As a criminal lawyer by origin, my first observation is that the definitive choice between guilty and not guilty made by juries is best and most widely accepted guarantee that laws against terrorism are valid. And when we come to – if we come to – counter-subversion measures, they will be accepted, if they are accepted, by allowing judges to decide.
76. So I will conclude by summarising my points. The boundaries of national security are hard to find and are liable to change. Terrorism and State Threats are separate concepts but show signs of convergence. New laws in this area require sufficient safeguards and if this means interventionist judges, then so be it.

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