

Leaving the War on Terror

A Progressive Alternative to Counter-Terrorism Policy



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Executive summary

Britain's counter-terrorism policies do not work. They do not work for the British people, who wish to live free of terrorism. They do not work for the various communities in the UK whose experience of counter-terrorism has been one of stigmatisation and criminalisation. And they do not work for the people of the Middle East, South Asia and Africa, whose human rights have been systematically violated in the War on Terror.

Just over two decades ago, the Irish and UK governments signed the Good Friday Agreement, the culmination of a negotiated peace process involving Republican and Loyalist armed groups in Northern Ireland. Principles of human rights, community consent and peace were key to achieving a dramatic reduction in lives lost to political violence. Indeed, by that measure, the Good Friday Agreement was the most successful instrument of counter-terrorism policy-making in recent history.

But the lessons of this success were not registered. The year after the Agreement was signed, Tony Blair's government introduced the first of the fifteen new Terrorism Acts that have been passed since then in what has become a near-annual parliamentary ritual. Each Act ratcheted up the powers available to the police and intelligence agencies, creating a shadow criminal justice system in which legal principles applicable in other spheres were dispensed with. Alongside this legislative agenda, norms shifted in other ways: the use of surveillance and propaganda was expanded and deepened; military force and extra-judicial killing as counter-terrorist methods became routine; and complicity with torturers was normalised. Intelligence agencies, police forces and the military doubled or tripled their counter-terrorism budgets and held onto this funding even as other sectors were ravaged by austerity measures. The logic of counter-terrorism was spread into every sphere of public life in Britain as workers across government services were expected to become the eyes and ears of national security surveillance. The definition of the threat was itself transformed: no longer simply a matter of individual acts of violence but a much broader danger, understood in terms of clashes of culture, ideology and values, and informed by the Islamophobic principle that Muslim political organisation and dissent should be cast as forms of extremism.

Concerns for human rights, for avoiding the stigmatising and criminalising of communities, or for basing policy on clear statements of goals and evidence of effectiveness were ignored. The number of civilian lives lost in ostensibly fighting "jihadist" terrorism were many times greater than those that have ever been lost or could have been lost due to "jihadist" terrorism itself. Even on the narrowest measure of success – the reduction of terrorism – the record of UK counter-terrorism over the last twenty years is a poor one.

The relentless expansion and proliferation of this War on Terror apparatus was underpinned by a consensus across the political class from the late 1990s. Central to that consensus were the claims that the UK faced an exceptional threat from "jihadist" terrorism, that this threat was the expression of an ideological rejection of British values among a generation of young Muslims and that, in response, the normal principles of domestic and international law should be suspended.

Labour leader Jeremy Corbyn's Chatham House speech on the War on Terror in the 2017 general election campaign was the first sign of a crack in that consensus. In the days after the killing of twenty-two concert-goers at the Manchester Arena, Corbyn argued that "the war on terror is simply not working" and opinion polls suggested a majority agreed.¹

This report offers an account of the failures of current counter-terrorism policies, an analysis of the reasons why they do not work and an outline of a progressive alternative that we hope will be the basis for a future Labour government's approach. We recognise the difficulty and complexity of the issue of terrorism and the various barriers that stand in the way of a different approach. But we believe the time is right to critically assess the legacy of the last twenty years and change course.

At the heart of our argument is a question of democracy. Counter-terrorism policy-making has failed because its development is unmoored from any substantial process of democratic accountability. Instead, the aims and means of current counter-terrorism policy have been set by a security establishment according to its own interests and values. This security establishment has not sought to provide a consistent and precise definition of terrorism or to seek to counter terrorism in an evidence-based way, based on academic studies of how terrorism comes into existence. It has not sought to ground security policy in the actual problems of political violence that communities in the UK face. And it has repeatedly placed loyalty to elite interests above the need to uphold human rights, especially with respect to Muslim populations, both within the UK and abroad.

The Labour Party has a particular responsibility to address the harms resulting from counter-terrorism as it was the Labour government led by Tony Blair that incorporated the War on Terror into British policy-making and his successor Gordon Brown who continued and extended the paradigm. Labour's 2017 manifesto already contained policies that align with our argument and can be built upon, such as the call to review Prevent, to address civil liberties concerns with the Regulation of Investigatory Powers Act and to hold public inquiries on past injustices. However, counter-terrorism policy has been one of the least discussed topics within the Labour Party, despite its deep impact on the lives of the over two million Muslims in the UK. We hope this report will help to initiate a more vigorous discussion.

Clearly, any left-wing Labour government will be attacked by its opponents as weak on national security. The temptation will be to not rock the boat and allow counter-terrorism policy to remain unchanged, the better to secure political victories in the core economic policy areas Labour Party supporters are more focused on. We believe this would be a mistake. It would mean a Labour government failing to uphold principles of human rights and racial and religious equality. But as a political strategy, it would also likely be counter-productive. Conceding ground on security policy will not minimise the attacks from right-wing media organisations or Conservative politicians; and a Labour government would be left defending itself reactively and inconsistently within a policy framework not of its own choosing. In this way, a failure to develop a progressive approach to security could end up undermining the credibility of a Labour government's broader policy agenda. A better strategy, we believe, is to adopt from the outset a coherent, explicitly stated, progressive policy that can be defended consistently and confidently.

Lack of plausible evidence base

1. Considered as a whole, Britain's counter-terrorism policies over the last two decades have been a catastrophic failure. Quite simply, if the aim of those policies was to reduce the number of civilian lives lost to political violence, then they have made the problem many times worse.
2. Government counter-terrorism practitioners have not been able to develop a precise and consistent definition of terrorism that would enable them to plausibly assess the effectiveness of their policies. Nor have they presented to the public empirical evidence that their policies have been effective in reducing violence. The UK government's publicly stated view of what causes "terrorism" is remarkably simplistic: that "terrorism" is caused by the presence of extremist ideology, which is defined as the rejection of British values. While this view has been avidly promoted by conservative think-tanks, there is no empirical evidence to support the claim that "terrorism" is the result of cultural separation from British values.
3. Forms of political violence conventionally defined as "terrorism" are closely related to other forms of violence, particularly violent state repression and international or civil war. The strongest correlations are with ongoing armed conflict and state violence, such as state-sanctioned killings, torture, disappearances and political imprisonment. Less than one per cent of terrorist incidents between 1989 and 2014 occurred in countries without either an ongoing conflict or some form of state terror.
4. Within the UK, the number of lives lost to "terrorism" in the last twenty years has mainly occurred in two periods: from 2005 to 2007 and from 2013 onwards. The last five years have also seen a growth in fatal right-wing violence. The overwhelming majority of attacks in the EU between 2006 and 2017 were not "jihadist" but other forms of "terrorism", principally separatist. The number of fatalities resulting from Republican or Loyalist political violence did, however, decline sharply after the Good Friday Agreement of 1998 – an important example that political violence has political causes and thus political solutions.

Undermining human rights

5. Counter-terrorism policy in the UK has developed a wide range of measures that bypass the legal principles of the regular criminal justice system, evade due process and do not require the same evidentiary standards that are expected in other cases. Instead, the adjudication of counter-terrorism cases has drawn heavily on a shadow justice system operating through the Terrorism Acts, the immigration system, the policing of citizenship, and deportation and extradition measures through international agreements with other states. The major targets of these practices have been Muslim, Kurdish and Tamil communities but the existence of this shadow system within the structures of government means the potential is always there for these methods to cross over to other categories, for example, peaceful protestors.
6. The prevailing approach to counter-terrorism is the desire to avoid regular, open criminal trials and especially jury trials. Jury trial is one of the means by which the powers available to counter-terrorism police and prosecutors are held to a measure of democratic accountability. But this check has been eroded as the application of counter-terrorism powers has shifted

away from charges tested in open UK criminal courts and instead been pursued by other means, such as secret evidence, extradition and restrictions on movement and behaviour that do not require a criminal conviction.

7. Since 2000, the UK has adopted no less than fifteen substantive Acts of parliament specifically addressing counter-terrorism or containing counter-terrorism provisions. Who may be deemed a terrorist by virtue of their actions or social network has been cast ever wider, the range of conduct criminalised as terrorist has moved further away from actual acts of terror and the communication of “extremist” ideology has been increasingly criminalised.
8. Despite earlier denials by ministers, British intelligence knew about, suggested, planned, agreed to or paid for others to conduct rendition operations in more than seventy cases in the War on Terror. There is every possibility that this collusion in torture is being, or could be, repeated. The UK government’s current policy is dangerously ambiguous, creating sufficient leeway for abuses, especially when collaborating with external partners.
9. The 2003 US-UK extradition treaty has been used to extradite Muslims facing terrorism charges to the United States. This has typically involved years of detention in the UK followed by lengthy periods in pre-trial solitary confinement in US prisons, with restrictions on communication between defendants and their lawyers – all of which limits possibilities of due process. In most cases, there has been plenty of scope within the British judicial system for these cases to be heard by UK courts but there appears to have been a lack of will to do so.
10. The home secretary has been empowered to deprive naturalised citizens of citizenship if it is deemed conducive to the public good and believed another citizenship could be acquired elsewhere. In a number of cases, Muslims who have been deprived of their British citizenship have been subsequently killed by drone strikes, subject to rendition or extradited to the United States. Punishment through citizenship deprivation or refusal is being used largely on the basis of suspicion, pre-emptive intervention or as a way to coax individuals into acting as informants, all of which move us away from democratic justice systems that conform to human rights principles. The particular repercussions for Muslim, black, immigrant and other marginal communities have been significant since they are made to feel much less secure about their rights to citizenship.
11. There are strong reasons for believing that the steady expansion of counter-terrorism powers has been counter-productive to the goal of reducing political violence. Plots to commit acts of violence within the UK can generally be investigated and prosecuted under regular criminal powers, using normal methods of police investigation, without need for recourse to the terrorism legislation or other special measures.

Prevent: fostering Islamophobia

12. There is no publicly available evidence that Prevent policy has prevented any act of “terrorism”. From the beginning, it has been almost entirely focused on Muslim populations, in effect amounting to a form of racial profiling. As such, it has fuelled the Islamophobic perception that Muslims have a problem of “extremism”. It has also encouraged the idea that Muslim community leaders were responsible for policing their communities on behalf of the government.

13. Throughout its deployment, workers in public services and in Prevent-funded community projects have been expected to share information on Muslims with police counter-terrorism officers. Non-policing public sector workers have, in effect, been drawn into counter-terrorism surveillance beyond reasonable suspicion of criminal activity. Through the expansion of Prevent, counter-terrorism surveillance measures have penetrated public life in Britain, institutionalising fear and distrust around Muslim communities.
14. There is widespread evidence of discrimination against Muslim students and violations of the rights of children. Prevent has had a chilling effect on classroom practice, creating an atmosphere in which certain opinions and topics are considered unacceptable or grounds for referral to the Prevent programme rather than warranting educational engagement.
15. Prevent has had a profoundly negative impact on freedom of speech and academic freedom at universities, including leading to new barriers to student participation in extracurricular activities on campus.
16. As a result of Prevent, some mental health trusts are routinely screening their service users for signs of radicalisation despite there being no evidence to suggest that persons with mental illness and learning disabilities are more likely to commit terrorism offences. Associating vulnerability to being drawn into terrorism with mental illness and learning disabilities can create suspicion around those with such conditions.

Unmoored from accountability

17. The failure of counter-terrorism is rooted in a policy-making process that has limited democratic accountability. In the UK, counter-terrorism policy is determined by a narrow group of officials with a shared allegiance to dominant economic interests, especially in the financial and defence sectors, and a commitment to the strategic alliance with the United States. A number of issues stand in the way of accountability: an undemocratic policy-making process that privileges elites and excludes public participation, the miscommunication of the nature of the "terrorist" threat, a lack of specific mechanisms by which intelligence agencies can be held accountable, the absence of any effective scrutiny of surveillance powers and the bypassing of parliament in some counter-terrorism policy-making.
18. The resources available to counter-terrorism have expanded massively over the last twenty years. There are more than 30,000 people employed directly in intelligence by the British government, including at MI5, MI6, GCHQ, the Office for Security and Counter-Terrorism at the Home Office, Counter-Terrorism Command (SO15) at the Metropolitan Police and various units within the military. The War on Terror has led to a significant expansion in covert activities, including industrial-scale surveillance, complicity in torture and renditions, extrajudicial executions and other actions of questionable legality.
19. Intelligence agencies do not just gather counter-terrorism intelligence but also play a central role in planning and implementing counter-terrorism operations and policing more generally. While intelligence agencies have acquired a de facto policing role, the police have steadily acquired more and more of the kinds of powers that were traditionally reserved to the intelligence agencies.

20. The apparatus for government communication has been overhauled and expanded markedly in the War on Terror period, for example with the creation in 2007 of the Research, Information and Communications Unit (RICU) of the Home Office. Covert communication and propaganda activities have been embraced in ways not seen since the height of the Cold War. This “strategic” approach to communication by the Home Office presents a major barrier to accountability: without a trustworthy process of communicating what kinds of threats of political violence the UK faces, the public cannot engage in the policy-making process in an informed way.

Democracy

21. Counter-terrorism policy-making can no longer be a one-way communication from officials to audiences; instead, there must be substantial public involvement in identifying its aims, its methods and the kind of research necessary to support it. Central to any transformation process is the need for policy-making to move away from the security elite’s assumptions about the national interest and root itself instead in the actual security needs of ordinary people. Security should be defined not as the absence of risk but as the presence of healthy social and ecological relationships. This implies a holistic view in which policy is informed by a broader conception of social well-being.

22. To develop such a people’s security programme, a national audit of security needs, with genuine local community involvement across the UK, should be conducted to provide a comprehensive view of the expressed concerns of ordinary people. This audit of security needs should provide the basis for defining the goals and methods of UK security policy, how resources are to be allocated and the priorities for future publicly-funded research on security.

23. A much wider process of transparency and accountability will be needed to open up the police and intelligence agencies to democratic scrutiny. Accountability processes need to be spread from the executive and from parliament to the judiciary and the public.

Evidence

24. An independent commission on the nature and causes of political violence should be established with the involvement of a broad range of academics, other experts and communities. The aim should be to provide a body of knowledge that can reliably inform policy-making and public debate.

25. Public debate on “terrorism” needs to be informed by accurate data from official sources. This requires a return to the public interest conceptions of government communications that were effectively abolished by the Phillis Review in 2004. “Strategic communications” units within government that have misled the public on the extent and nature of “terrorism” should be closed.

Human rights

26. The UK should commit to ending diplomatic or military support for states involved in widespread human rights abuses. The UK should also support international efforts to reduce corruption, sectarianism and religious intolerance.
27. The use of Terrorism Act powers to criminalise freedom of expression and association should be ended. Within the UK, the regular criminal justice system should be used to bring any charges against individuals accused of terrorism-related offences to jury trial. If there is insufficient evidence to bring a charge, there should be no alternative punishment such as extradition, deportation or restrictions on movement and behaviour that do not require a criminal conviction.
28. The UK government should recommit to the absolute prohibition of torture and of cruel, inhuman or degrading treatment, and to instil a respect for this prohibition throughout the state security apparatus.
29. In extradition cases, requesting states should provide prima facie evidence to support their charges and present a clear justification for why the case ought to be heard under their jurisdiction as opposed to under the British judicial system if the accused is resident there.
30. All legal amendments passed since 2002 which have enhanced state powers to deprive citizenship in the context of national security must be repealed in order to reaffirm that citizenship is an unconditional right.

Community consent

31. After more than a decade, it is time to abandon Prevent and the thinking that gave rise to it. The Prevent duty in the Counter-Terrorism and Security Act 2015 should be repealed and Prevent policy ended.
32. Public institutions have existing safeguarding frameworks to help deal with a range of potential harms to their service users – these mechanisms have been under strain as a result of a decade of cuts and austerity. Instead of collapsing these mechanisms into counter-terrorism objectives – these longstanding safeguarding procedures should be strengthened and given the resources needed for effective delivery. Where mental health is concerned, it is essential to ensure adequate provision of mental health services tailored to address specific needs without incorporating a counter-extremism risk assessment framework into routine mental health practice.
33. All public institutions should strengthen their mechanisms for democratic participation and decision making. Universities need to be protected as independent bodies for research and knowledge production. Decision-making on freedom of speech within the student community should be grounded in student union democracy rather than subject to the oversight of university management.

Peace

34. The military actions of the War on Terror have had disastrous consequences for the regions affected and for Britain. The UK should commit to ending involvement in unilateral military interventions.
35. The strengthening of efforts to resolve conflicts justly and peacefully is an important component of an effective, progressive programme of reducing political violence. To the extent that the proscription of armed groups under the Terrorism Act hinders peace processes, by preventing communication and engagement with armed factions, it should be repealed.
36. In many areas of foreign and counter-terrorism policy, there is a need to deal with the damaging legacy of the failed policies of the past. This means practical action to dismantle structures of institutional discrimination and repression as well as investigations and inquiries that bring to the surface what has been suppressed by secrecy, misinformation and a lack of accountability. This should be done in three ways:
 - a A judge-led public inquiry with wide terms of reference to fully investigate Britain's role in human rights abuses in the War on Terror;
 - b Reparations, including significant material compensation but also steps to regulate activities by the state in the light of the failures of the past;
 - c Prosecution of individuals criminally complicit with torture and military aggression.

1. "Jeremy Corbyn speech on terrorism and foreign policy: full text", New Statesman (26 May 2017), <<https://www.newstatesman.com/politics/staggers/2017/05/jeremy-corbyn-speech-terrorism-and-foreign-policy-full-text>>, retrieved 28 September 2018; "Jeremy Corbyn is on the right side of public opinion on foreign policy: except for the Falklands", YouGov (30 May 2017), <<https://yougov.co.uk/topics/politics/articles-reports/2017/05/30/jeremy-corbyn-right-side-public-opinion-foreign-po>>, retrieved 26 May 2019.

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This report offers an account of the failures of current counter-terrorism policies, an analysis of the reasons why they do not work and an outline of a progressive alternative. The time is right to critically assess the legacy of the last twenty years and change course. Counter-terrorism policy-making has failed because its development is unmoored from any substantial process of democratic accountability. An alternative progressive counter-terrorism policy must be grounded in five key principles: democracy, evidence, human rights, community consent and peace.



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