IIICAGE

20 YEARS OF TACT:
JUSTICE UNDER THREAT

CAGE is an independent advocacy organisation working to empower communities impacted by the War on Terror policies worldwide. The organisation highlights and campaigns against such policies in hope to achieve a world free from oppression and injustice.

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EXECUTIVE SUMMARY

Over the last 20 years since the introduction of the Terrorism Act 2000 (TACT), the British counter-terrorism (CT) regime has expanded to historically unprecedented levels.

Successive, almost annual reviews of legislation within a racist, fear-based environment have resulted in a near-limitless policing apparatus, and - perhaps most troublingly - a two-tier justice system that undermines democratic governance.

Only 11.6% (548) of 'terror arrests' have resulted in terrorist convictions since the TACT statistics were recorded.

Almost half of all arrestees (49%/2,329) are released without action, while just over a quarter of arrestees are charged with a terror offence (27.3%/1,293).

Terror arrests, especially raids, often attract media attention and serve as a visible indicator that 'something is being done'.

But these statistics show that the reality away from the headlines often falls short of the impression created by them.

As of March 2020, 77% of individuals in prison custody for terror offences are Muslim.

Furthermore, the way that the spectre of 'extremist'/'terrorist' prisoners is mobilised politically - with the idea of prisons are "breeding grounds for terror" - has also justified the expansion of the prison regime and validated discriminatory perceptions of Islam and Muslims.

The stigma and fearmongering attached to Muslim-majority terror offenders has served to validate the hard arm of policing, and undermine the very notion of rehabilitation.

This is something we are seeing with recent laws such as the Terrorist Offenders (Restriction of Early Release) Act 2020, and the Counter-terrorism and Sentencing Bill currently under consideration - which herald a punitive turn that favours keeping individuals trapped in a cycle of prison and surveillance indefinitely.

In contrast with the commonsense notion of CT policing prosecuting plots of mass public violence, a majority of convictions have been for 'pre-crime' offences such as Section 58 of the Terrorism Act 2000 and Section 5 of the Terrorism Act 2006.

These are offences relating to possession of banned material, or preparatory activity, but which place the burden of proof on the defendant who often faces a near-impossible environment, such as being faced with secret evidence and a judiciary that is in thrall to a discriminatory and compromised executive.

REVOKE

- Repeal all counter-terror laws instituted since 2000
- Abolish the Special Immigration Appeals Commission system and repeal the Special Immigration Appeals Commission Act 1997
- Cease the use of closed material procedures

Revoking the laws and apparatus of TACT and CT is a necessary first step, because as long as that architecture remains operational it will be utilised, and can be mobilised for future politicised 'threats'.

Pre-existing frameworks for prosecuting crimes of violence, pre-date TACT, concern themselves with actual acts or provable intentionality, and are adequate to deal with most of what constitutes political violence on their own terms.

Acts of violence should be treated as criminal law matters through pre-2000 legislation such as the Offences Against the Person Act, while international matters amounting to war crimes or crimes against humanity can be prosecuted through appropriate internationally recognised statutes.

Strict liability offences - which don't require intent to be proven - that relate to possession of materials or the dissemination of ideas should be removed entirely from the statute book and any crimes that incite violence, should be dealt with as crimes of incitement.

REPAIR

- Initiate a public inquiry to review the long-term impact of creating suspect communities
- Initiate a commission for reparative justice for communities unfairly impacted by TACT powers

The impact of CT to both targeted communities and institutions such as the criminal justice system is deep and defies simple quantification, but the manner in which repressive counter-terror policies shifted so seamlessly from targeting the Irish pre-1998 to targeting Muslims and foreign nationals post-2000 indicates that there was no meaningful assessment of the damage caused by these powers in the first place.

Measures towards reparative justice must be taken to account for and properly address the deep harm caused by TACT and resultant CT complex to targeted communities, and to prevent the 'crosshairs' simply moving on to other communities in future.

Too often measures by the government to engage Muslim communities in particular are done through the lens of engaging an at-risk demographic, or to prevent them from falling to 'extremism' - which only serves to compound the initial alienation[1].

The precise terms of such a commission should be developed alongside those affected communities, but steps towards reparative justice must concretely affirm the value and importance of engaging them on their own terms, rather than through a securitised lens.

RE-EVALUATE

- Adopt CAGE's 8-point plan for healthy, safe societies
- Conduct a 'people's inquiry' towards building social security not 'national security'

The singular focus on 'countering terrorism' and 'national security' has had a corrosive effect on public and political discourse, and the wider public mindset. For the past two decades, British society's needs have been systematically subordinated to the demands of a CT complex that has been imposed on it - rather than being allowed any meaningful opportunity to evaluate and define its own needs.

A proper re-evaluation of society's needs needs to be wide-ranging, comprehensive and properly informed, rather than shallow focus group exercises to validate and rubberstamp pre-existing outcomes.

INTRODUCTION

On 20th July 2000, the Terrorism Act 2000 (henceforth, TACT) received royal assent to become British law, only seven months after being introduced to Parliament.

In the intervening twenty years, the British counter-terrorism (CT) regime has expanded to historically unprecedented levels - from 'hard' CT policing to 'soft' means of social control like PREVENT, and is bound up with systems and processes that can determine citizenship stripping[2] and child removal[3].

This has created a near-limitless policing apparatus, a parallel justice system that undermines the rule of law and infringes on civil liberties for all, and introduced techniques and technologies that justify intrusion and surveillance into every single sphere of life.

Indeed, under British counter-terror laws we can now prosecute 'terror offences' carried out in space[4].

Since 2000 we have witnessed the ritual passing of new 'counter-terror' policies through Parliament almost annually - the most recent being the Terrorist Offenders (Restriction of Early Release) Act 2020, with the Counter-terrorism and Sentencing Bill currently under consideration[5,6].

However, it is TACT 2000 that forms the legislative backbone of counter-terror policing in Britain, alongside the additions introduced by some of its immediate predecessors such as the Anti-terrorism, Crime and Security Act (ACTSA) 2001, Terrorism Act (TA) 2006 and the Counter-terrorism Act (CTA) 2008.

The political and media discourse on 'terrorism' has steadily normalised and legitimised this mass surveillance apparatus, but less often highlighted is how counter-terrorism itself serves as its own justification.

Far from the lay idea of 'terrorism' referring to acts of mass public violence, the majority of offences instituted and prosecuted under TACT and counter-terrorism are what could be termed pre-crime and/or non-violent offences, such as "collection" or "possession" of material prosecutions, as we describe below.

Yet with each arrest for an alleged terror offence, the counter-terror regime is better positioned to legitimise itself, tout its ongoing 'success', and bargain for greater powers and funding - despite over 88% of terror arrests since 2001 not ending in a terror conviction.

Having created a parallel justice system, honed through use against foreign nationals and/or Muslims, counter terrorism laws have precipitated a legal context in which the ordinary rule of law system of checks, balances and institutions of criminal justice and judicial oversight has been dangerously compromised.

For the twentieth anniversary of TACT 2000, CAGE will be releasing a number of reports highlighting the history and impact of the law and the resultant exponential growth of the counter-terrorism regime, drawing upon our 17 years of experience campaiging and advocating on against its negative impact throughout society.

This report will focus on the actual usage of TACT and TACT-associated powers[7,8], and lays out a set of urgent recommendations after 20 years of TACT, for a society beyond counter-terrorism law and surveillance.

Our recommendations include:

Revoke
- Repeal all counter-terror laws instituted since 2000
- Abolish the Special Immigration Appeals Commission system and repeal the Special Immigration Appeals Commission Act 1997
- Cease the use of closed material procedures

Repair
- Initiate a public inquiry to review the long-term impact of creating suspect communities
- Initiate a commission for reparative justice for communities unfairly impacted by TACT powers

Re-evaluate
- Adopt CAGE's 8-point plan for healthy, safe societies
- Conduct a 'people's inquiry' towards building social security not 'national security'

UNDERSTANDING BRITISH COUNTER TERRORISM

> *However, we will have handed the terrorists the victory that they seek if, in combating their threats and violence, we descend to their level and undermine the essential freedoms and rule of law that are the bedrock of our democracy."* [9]
>
> - Jack Straw MP, 14th December 1999

TACT TODAY

It was with these words that then-Home Secretary Jack Straw introduced the Terrorism Bill for debate in December 1999; the first in a series of laws that would, in short time, deeply undermine "essential freedoms" and rule of law in Britain.

The Terrorism Act 2000, and successive CT legislation, have enshrined dragnet policing into law by creating a vast catalogue of 'terrorism' offences and powers, from suspicionless Schedule 7 border stops to collection and dissemination offences - for which what is often merely 'reckless' behaviour on social media or misguided curiosity, can result in terrorism convictions.

However, simply pointing out the hypocrisy of individual politicians, or invoking the argument that authoritarian counter-terror laws are "giving the terrorists what they want" is, ultimately, a trite approach to the issue.

British (and international) 'counter-terrorism' cannot be reduced to bad laws or bad intentions; they are constitutive features of the post-millenium political age: the War on Terror era.

The battle against 'counter-terror' policy state surveillance is a defining battle of our generation - and therefore must be waged on explicitly political terms, rather than solely through abstract moralisms or legal wrangling. Certain CT laws over the past two decades have been ameliorated or struck down by courts.

Sections of the Anti-terrorism, Crime and Security Act (ACTSA) 2001, introduced switfly after the 9/11 attacks and allowing for the arbitrary detention of foreign terror suspects without trial, were ruled unlawful by the Law Lords for example[10].

However this partial legal success ultimately served to change the shape of CT, rather than undermine its operating logic: Control Orders - allowing for house arrest and internal exile - were introduced shortly thereafter in the Prevention of Terrorism

Act 2005 to replace arbitrary detention[11], before themselves being replaced by modified Terrorism Prevention and Investigation Measures (TPIMs) in 2011.

The powers granted by TACT are intrinsically political powers, serving Britain's ever growing security apparatus as well as its foreign interests. The proscription regime for banning groups, for example, has served as a tool of foreign policy .

As lawyer Gareth Peirce stated in 2001, "What the Terrorism Act does is put into legislative form the existing economic and strategic links the UK has with [oppressive governments in] those countries"12 - with some of the earliest designations being made to appease governments such as Israel, Saudi Arabia, Sri Lanka and Turkey[13].

In turn, the list of proscribed groups has ballooned and a wide corpus of offences to prosecute support for proscribed groups in Britain has grown under TACT and CT laws - criminalising both groups and activities which are a far cry from what can be instinctively understood as 'terrorism', or political violence.

For that reason, to challenge TACT and CT purely on the grounds of 'efficacy' is to already concede to the surveillance regime that they are justified in existing. As such, assessing the value of CT cannot be done by granting validity to the ever-expanding category of 'terrorism', or on the terms set by the law itself.

Organising against the British surveillance regime has in recent years focused primarily on the PREVENT programme, and not without with good reason: PREVENT was the point at which CT came knocking on the door of the average British resident, and is among its more wide-reaching policy, whereas other powers are used less visibly damaging.

However, PREVENT cannot be taken out of the context of the wider CT complex, and that CT complex cannot be meaningfully assessed without taking into consideration the cultural, political and institutional impact it has had in Britain over two decades.

The same criticisms that apply to PREVENT - its operation as a 'pre-crime' power, its discriminatory and Islamophobic nature, and the deleterious impact it has has on civil liberties - all apply to CT more broadly, and it's important to tackle this fact head-on, rather than focusing only on 'low-hanging fruit' like PREVENT.

This is necessitated by the fact that the CT regime has helped make the previously unthinkable in British law and society, possible.

Whereas late into Thatcher's government, Home Secretary David Waddington could warn against the dangers of introducing secret evidence in terrorism trials as such:

"Any new procedure which …[allows] a court to make a decision on information not presented to the detainee or his legal advisor would represent a radical departure from the principles which govern judicial proceedings in this country and could seriously affect public trust and confidence in the independence of the judiciary."[14]

The introduction of the Special Immigration Appeals Commission (SIAC) system[15] under Tony Blair's government did just that, for the purposes of 'national security'. Since the turn of the millenium, secret evidence - whereby a defendant cannot see or challenge the evidence held against them, and are represented by a legal representative appointed by the state - has become an increasingly normalised feature of the British justice system.[16,17,18]

The message was: if you don't shut up, we will take your kids

It's my freedom and my right to demonstrate against policies that I disagree with. It's my right to speak against oppression and hold public assemblies and erect tables and engage in dialogue with others about these things. These are actually all constructive things, and positive ways of dealing with our current global situation.

But they just wanted me to shut up. The message was: if you don't shut up, we will take your kids. They really have nothing to go on. There's really absolutely nothing to prove the "signs of radicalisation". "Signs of radicalisation" simply don't exist. There's no characteristic that you can spot to determine who is dangerous and who isn't.

But for them, number one is that you are Muslim, that you pray five times a day, and you have grievances. If my children were to grow up, pierce their bodies, put tattoos all over themselves and worship Satan, that won't cause an intervention - but if my daughter wears hijab, and my son grows a beard and wears a thobe, that is a cause for concern.

PREVENT is not a children's service piece of work; it's a strand of the [Counter-Terrorism and Security Act], and it is has nothing to with safeguarding because the safeguarding team had no concerns about my children.

Still, there was no respite. I had to keep defending
myself. If I said I am not feeling well, or I was too busy for you to see my children, or please don't come today, I am too tired, or they were very busy with homework – which was sometimes the case – that would go down as me not allowing access. I just couldn't do that.

Then I had a heart attack. There I was lying in hospital, dying from a heart attack and social services again came knocking on the door, turning up at the kids' school, trying to find out who was picking up my children. It was three years of continuous hell.

It escalated it to court proceedings. I had a very good, reasonable understanding judge. I know that in many cases when parents lose their children, it's not because they had some fault with the parents, but it is due to a biased judgement.

I was fortunate. The judge said my children were in no danger. The social worker had said this before, that there were no dangers, that they were smart kids, achieved well, but I think there was manipulation from above.

The judge was unconvinced at the evidence the police had to show that I was an "extremist". The ruling was that I was evidently a good mother, as my children were provided for and cared for and had the "necessary emotional support" and "good living conditions". The judge identified that I was a "religious" person but not an "extremist".

The judge also showed a lot of sympathy to my heart condition that I had developed in the process and wanted to quickly resolve the case. She was concerned about the length of time that this had gone on for, and she reprimanded the local authorities for prolonging a case that should have been resolved quickly and outside of court. She also lamented the amount of public funding that had been spent.

The effect of this on my children, I can't really describe it. When you agree to engage with PREVENT, you are engaging with the police. You don't know if your files are being locked up and used at Scotland Yard and how they are being used. I simply refused to enter into that.

My children, because they are my children, they are already a potential threat to the state. They are somehow future "terrorists". It's really sad that they have to grow up with this assumption.

- Yusra, political activity, developed to social services and PREVENT, escalated to child removal case

Meanwhile, CT has vastly inflated the power of the executive branch, moulded a judiciary that is uncritical and deferential to CT authorities, and perhaps most damagingly, generated a sense of surveillance realism: the idea that there is no alternative to endless surveillance and counter-terror measures.

Having been initially introduced to tackle nameless, formless external enemies, the logic and apparatus of CT have progressively been turned inwards on the British state and society to hollow it out from the inside.

The ongoing coronavirus pandemic has made the practical consequences of this starkly clear; the systematic privileging of Britain's military, security and surveillance apparatuses has come at the expense of the public health infrastructure, which has left the sector thoroughly unprepared to deal with a crisis of this scale.

As we stated in our report Exploiting a Pandemic: The Security Industry's Race to Infiltrate Public Health:

"Over the past two decades and through the course of the War on Terror, over £648 billion has been invested in military spending, the 2018 CONTEST strategy committed a further £1.4 billion investment in counter-terror for security and intelligence agencies and £2 billion for the UK Special Forces' counter-terror work,while the counter-terror policing budget alone was raised this year to near £1 billion.

Meanwhile, the NHS has been left systematically underfunded and under resourced - and manifestly unequipped to deal with a pandemic such as the current one."[19]

At the time of writing, we are currently facing a period where questions of racism, policing and state violence have seized the global imagination, with mass uprisings taking place against police brutality in the US, UK and worldwide.

As communities globally continue to grapple with and adapt questions about state violence and resistance to their own contexts, we must be firm in placing the issue of the abolition of 'counter-terrorism' on the agenda.

This is because modern state violence in Britain cannot be understood without the role of modern counter-terrorism - as well as the anti-immigration powers with which it is bound up - in expanding, militarising and legitimising mass policing and surveillance.

Tackling this necessarily includes addressing the political backdrop of post-2000 counter-terrorism and the legislative context of counter-terror laws, but also the very framework of "terrorism" itself - which, as defined and mobilised through modern CT law - is distant from the commonsense idea of mass public violence.

> *Modern state violence in Britain cannot be understood without the role of modern counter-terrorism as well as the anti-immigration powers with which it is bound up.*

As has been pointed out - and with few exceptions[20,21,22,23,24] this has been a field that otherwise radical campaigns and organisations have dared not touch: "[There] are few voices offering a genuine alternative to current national security policies. At a moment when demands for police and prison abolition have travelled from the radical fringes into mainstream prominence, we must resist the temptation to capitulate on the tricky terrain of national security"[25].

The 2019 report Leaving the War on Terror: A Progressive Alternative to Counter-Terrorism Policy co-authored by Ruth Blakeley, Ben Hayes, Nisha Kapoor, Arun Kundnani, Narzanin Massoumi, David Miller, Tom Mills, Rizwaan Sabir, Katy Sian and Waqas Tufail bucked this trend by providing a wide-ranging and comprehensive account of the damage inflicted by surveillance policies, and promoting a viable and proactive alternative[26].

CAGE's report Beyond PREVENT: A Real Alternative To Securitised Policies also provides a broad-ranging alternative to PREVENT and 'counter-extremist' surveillance programmes, based instead on structural and policy changes, that hinge on addressing the root causes of violence and building healthy, safe societies without securitisation[27].

As the British counter-terror regime grows and marches onwards, it is not enough to tackle it on a case-by-case

basis; by calling for more rubber-stamping reviews, merely amending legislation or seeking a 'human rights compliant' CT.
What is needed is broad-based campaigning against the politics that have made the counter-terror regime possible, and the political, social, discursive and legislative context in which CT is embedded.

We must challenge the political consensus that prioritises state surveillance over social development, disrupt the political economy that has made 'counter-terrorism' a profitable vocation, and comprehensively reassess 'security', placing at its centre people rather than policing.

The question being asked should not be how to make terrorism laws better, but rather: how and whom can find safety in an apparatus built to legitimise violence?

THE INCEPTION OF TACT

Breathtakingly wide-ranging in its scope, the Terrorism Act 2000 consolidated and made permanent many provision of the Prevention of Terrorism Acts (PTA), a series of emergency laws instituted since 1974 to deal with political violence related primarily to the context in the North of Ireland (NI) and the period known as The Troubles.

Famously described as "Draconian" and "unprecedented in peace time"[28] upon introduction by then-Home Secretary Roy Jenkins, the PTAs were still renewed by Parliament every year and extended in 1976, 1984 and 1989.

In December 1995, crossbench peer Tony Lloyd, Lord Lloyd of Berwick, was commissioned to conduct an inquiry into the need for counter-terror legislation, assuming the existence of peace in the North of Ireland and the conclusion of the Troubles in the near future.

In Autumn 1996, Lloyd produced his inquiry report, Inquiry into Legislation Against Terrorism 1996, which concluded that "When lasting peace is established in Northern Ireland, there will continue to be a need for permanent anti-terrorist legislation"[29]. Additionally, the report provided a definition for 'terrorism' and outlined draft legislation which would soon become the Terrorism Bill, then Act in 2000.

Reviewing the then-existing PTA powers, and complimentary Northern Ireland Emergency Provisions Acts (EPA) regime, active in NI, Lloyd recommended keeping anti-terror policy broadly intact for future permanent CT law.

He also proposed the introduction of offences for membership of terrorist groups, and for the preparation of terrorist acts.

> *"Meanwhile, CT has vastly inflated the power of the executive branch, moulded a judiciary that is uncritical and deferential to CT authorities and, perhaps most damagingly, generated a sense of surveillance realism: the idea that there is no alternative to endless surveillance and counter-terror measures."*

Powers for proscribing 'terrorist' groups have since ballooned into an array of censorious offences, while preparatory offences constitute the single most used terrorist offence on the statute.

The Act contains 16 Schedules and 131 Sections (enactments), with the sections divided into 8 parts

- Part I (Sections 1-2) introduces the legal definition of "terrorism";
- Part II (Sections 3-13) includes clauses relating to the proscription (banning) of organisations, outlining the process as well as proscription-related offences;
- Part III (Sections 14-31) outlines offences relating to "terrorist property"; funding and resources relating to the commission of terror offences;
- Part IV (Sections 32-39) relates to investigations of terror offences and proscribed organisations;
- Part V (Sections 40-53) outlines powers of stop, search and arrest granted to officers for CT purposes;
- Part VI (Sections 54-64) outlines other terror offences,including offences added to the books by post-2000 CT laws;
- Part VII (Sections 65-113) outlines the use of TACT powers in NI; and Part VIII (Sections 114-131) includes other general provisions.

The near customary introduction of new CT or CT-related legislation every other year has seen the CT regime grow into the most expansive terror regime in history.

It is also a regime that has exceeded the bounds of acceptability for some of its own architects. In January 2015, in one of his very last appearances in the House of Lords, Lloyd spoke against the Counter-terrorism and Security Bill (now Act), stating that:

"Surely the crucial question is whether the legislation as now proposed will help to bring about the change that we need or only serve to make matters worse. I am afraid that the answer to that is only too clear. The sort of legislation that we are now being asked to pass can only make matters worse...We will be making the same sort of mistake if we pass this legislation as we have made so often in the past."[30]

IMPACT OF TACT

In the following sections we will look in more detail at the usage of TACT powers in more detail - but it is important that the conversation on TACT and its impact is not reduced to cold calculations or statistics, and that its human impact is not elided.

Included throughout this paper are accounts from individuals that CAGE has worked with through our casework and/or wider research, whose voices are key to any discussion on TACT.

TWO-TIER JUSTICE

TACT and successive CT powers have had a deleterious impact on rule of law and the institutions of the criminal justice system over a period of time.

Principles of justice – such as the idea of standards of due process, innocent-until-proven-guilty, an independent judiciary and a transparent prosecution process – have been eroded or undermined.

Once a double standard has been established for the prosecution of primarily Muslim 'terrorists', this two-tier justice system can and has been expanded throughout the criminal justice system.

Without suggesting that the pre-2000 criminal justice system was at all faultless, the collapsing of the separation of powers, introduction of secret evidence and lack of meaningful oversight over the use of CT powers has been deeply damaging especially over the past twenty years - the use of the SIAC system is an especially stark example.

The standard of proof required for prosecuting offences under CT law has been diluted. The majority of offences are for possession of banned material, and being concerned in what would ordinarily be convicted as an offence of conspiracy to commit - if it were not brought within the purview of CT.

In CT prosecutions, the natural division between the Actus reus - the element of the crime - and Mens rea - the intention - has become blurred.

That is to say that CT prosecutions are geared towards convictions on the basis of the element of the crime - without necessarily requiring intention to be proven, effectively being prosecuted as strict liability offences, which do not require proof of intent.

Under ordinary criminal justice processes, the onus on proof lies with prosecutors and rests on the basis of innocent until proven guilty.

CT prosecutions, on the other hand, lower the burden of proof required - whereby even 'reckless' behaviour falling short of intention can be prosecuted in certain offences. They have effectively shifted the burden of proof on to defendants to prove their own innocence; an inversion of the traditional principle.

When it comes to proving intent on the part of defendants, this element of the prosecution process is also subject to the wider context of Islamophobia in which counter-terror powers are embedded

The securitisation of Islamic belief, knowledge and practise comes to bear upon prosecutions in the following way.

Proving intent often relies on proving a 'terrorist' or 'extremist' mindset, which in this political climate can draw upon reductive and skewed ideas of 'extremism'[31] in the case of Muslims in particular. The same Islamophobic notion of 'Islamist extremism' mobilised through PREVENT can be and is employed during terror prosecutions, rendering convictions even more fraught, unsafe and potentially discriminatory.

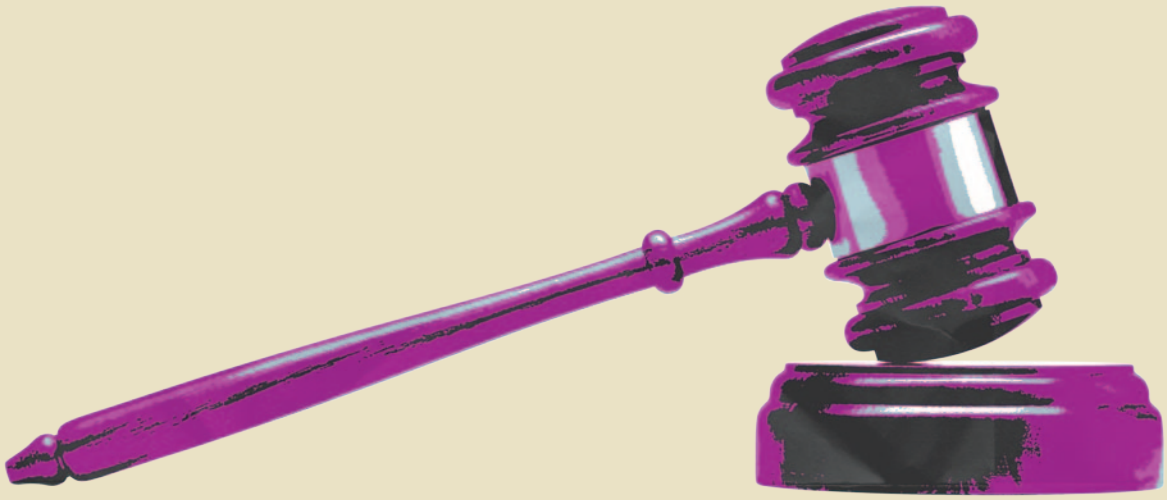
Commenting on the conviction of Munir Farooqi, Matthew Newton and Israr Malik after an undercover operation, Head of the North West Counter Terrorism Unit, Tony Porter said that it was:

"[An] extremely challenging case, both to investigate and successfully prosecute at court, because we did not recover any blueprint, attack plan or endgame for these men. However, what we were able to prove was their ideology."[32]

“The judge said I had no criminal intent, but my sentence was to be a message.”

The judge said that he accepted our mitigation, that I posed no threat, that I had no intent and that I was not any kind of terrorist...Despite all of this, the judge said that he had to pass a sentence, as s.58 possession of terrorism material is an offence, without there being any intention element involved – the mere fact I had Inspire in my possession was a criminal offence. The judge explained that he had to sentence me for 12 months in order to send a message to the public – a theme that was picked up by the prosecution who later said, let this be a lesson that those in possession will be charged.”[33]

- Umm Ahmed, convicted under terrorism law despite having no criminal or terrorist intent.



Furthermore, the expansion of criminal categories under CT law and the growth of pre-crime policing serves the intelligence gathering purpose that is central to the CT regime, and dragnet policing can see individuals brought into the purview of the CT complex on little or no basis.

A suspicionless Schedule 7 stop alone could set in motion a longer term process of intelligence gathering and harassment for a traveller, or potentially escalate to forms of CT intervention.

The viewing of 'terrorist' content online, even if accidental or with legitimate reason, could also see an individual taken through the prosecution process for a Section 58 offence and hauled before a judge to offer their defence.

This casts a chilling effect over more and more areas of life - the threat of an arrest of prosecution can deter activities as mundane as expressing opinions on a proscribed group, clarifying Islamic terms or reading Islamic poetry, or researching terror groups online for academic purposes.

The aforementioned SIAC system is perhaps the most extreme example of how far the criminal justice system has been compromised by counter-terror policy.

Cases heard through SIAC operate as closed material procedures - through the use of secret evidence withheld from publication on 'national security' grounds.

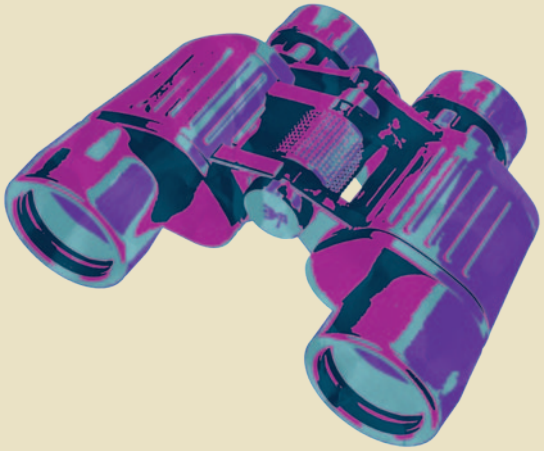
A defendant is represented by a 'Special Advocate', specially vetted barristers appointed to them by the state, and cannot see or challenge the evidence held against them.

The defendant is expected to provide information on any and all information that may be relevant for the purposes of this secret investigation, after which point they may have no further communication with their Special Advocate, who go on to closed meetings to find out the evidence held against the defendant.

“I had binoculars in my luggage, and they said this was proof of terrorism.”

The officers asked me questions about my whole history, my schooling, my family, everything. They asked me for my phone. I gave it to them. They took it. I had one audio clip on my phone, a talk by Anwar al Awlaki called ‘The Hereafter’. I also had a pic of a black flag with the shahada on it. They said this proved that I was linked to a bomb plot, and that I supported terrorism… I had binoculars in my luggage and they said this was proof that I was going to the Afghan-Pakistan border and I was going to look for British soldiers with these binoculars. It was ridiculous. I had the binoculars for sightseeing. After this, they contacted me several times and wanted me to work for them, to become an informant on my community. The way the officers treated me the first and second times, it was like I was a proper criminal. I never thought binoculars could be incriminating.

- *Ashraf, Schedule 7 case accelerated to MI5 harassment*



The difference between solicitors and Special Advocates is listed in the table below

Solicitors & Barristers	Special Advocates
Represent clients in an open court	Represent clients in a closed court
Presents the evidence against their client and takes instruction from them on their response	Takes 'doubleblind' information from their client on their whole life in the hope that some of it may be relevant in the closed hearing.
After the hearing, discusses the case and outcome and steps going forward with the client.	After going into the closed hearing, cannot speak to the client again; does not update them on the outcome, or any steps forward.

Having been trialled in SIAC and national security cases, the use of closed material procedures/secret evidence has been expanded to employment tribunals, planning inquiries and civil proceedings such as family courts.[34]

The processes, precedents and principles introduced by TACT and CT prosecutions have undermined the values of the criminal justice system and effectively created a two-tier justice system that has been used primarily against Muslims, before expanding further.

The exceptionalisation of terror offences and counter-terror policing has legitimised a widescale attack on the criminal justice system that threatens the principles of justice across the board.

Furthermore it has collapsed the separation of powers between the three branches of governance - the Executive, the Judiciary and the Legislative - which should be sacrosanct to the democratic functioning of society.

Having been made pliant and deferential to the government and its agencies, the Judiciary is unable to meaningfully protect individuals from the excesses of an overpowered Executive branch.

PRE-CRIME & POLITICAL POLICING

TACT has significantly widened the scope of, and legitimised the use of, 'pre-crime' offences.

Though most often associated with the PREVENT programme, pre-crime is a core feature of modern CT policing; CT is a form of future policing rather than violence prevention.

In Pre-crime: Pre-emption, precaution and the future, McCulloch & Wilson identify four categories of Pre-crime, the first three of which are amply covered by TACT

Powers:
- Coercive interventions designed to pre-empt pathways to criminal careers.
- Coercive interventions to pre-empt crimes it is believed that the target intends to commit in the future.
- Detention or restrictions on people without criminal conviction or charge, on the basis that they may pose a threat or have information about threats
- Coercive intervention to pre-empt crimes by disrupting criminalised associations and ideologies.[35]

Much of TACT and the wider CT regime is concerned with criminalising and policing activities that may allegedly be of use towards acts of political violence in future.
As CT offences are geared towards criminalising actions at the earliest possible stage, they have shrunk the distance between activities and the threshold for state intervention: the police need less and less reason to intervene in one's private life.

Because of the reliance on pre-crime categories, judging the 'efficacy' of counter-terror laws on their own terms is an exercise in question begging: it would presume that the catch-all category of terror introduced by TACT is itself valid.

We, on the other hand, do not presume as such - and understand the category of 'terror offences' to be inherently politically driven.

TACT has created a framework to enable the targeting, surveillance and disruption of political movements in the broadest sense.

This is evident in the very definition of terrorism under TACT, whose wide scope covers 'serious damage to property', acts 'designed to influence the government or an international governmental organisation' and towards 'political, religious racial or ideological cause.'[36]

“I had to change my whole persona – for reading a book that was part of my studies.”

I had been really looking forward to the next module in my course which was centred on Terrorism. I had been given some course material, decommissioned documents, some papers that had been used as evidence in court cases. There were also books we had to read authored by leading experts in the field. I would go to the university to read, and so I was sitting in the library, going through the reading material and there were two ladies on my left.

One of them was a magistrate, the other I thought at the time was probably a law student, but I’d never seen them before. All of a sudden they started asking me what I was reading, and then when I told them, they started firing questions at me, like ‘what do you think of ISIS?’ and ‘do you agree with sexual freedom?’ and ‘what do you think of homosexuality?’ The questions became more and more progressive, like I was being pulled further and further in. Anyway, they left and I bid them farewell, and I moved to a study booth.

About half an hour later, I noticed this security officer walking around like he was on hot coals. Eventually, he stuck his nose through the opening to the booth and saw me. He then pulled open the door and said “It’s you!” I said, “What?” And he said “We’ve just been told there’s an al-Qaeda operative on this campus! And it’s you!”

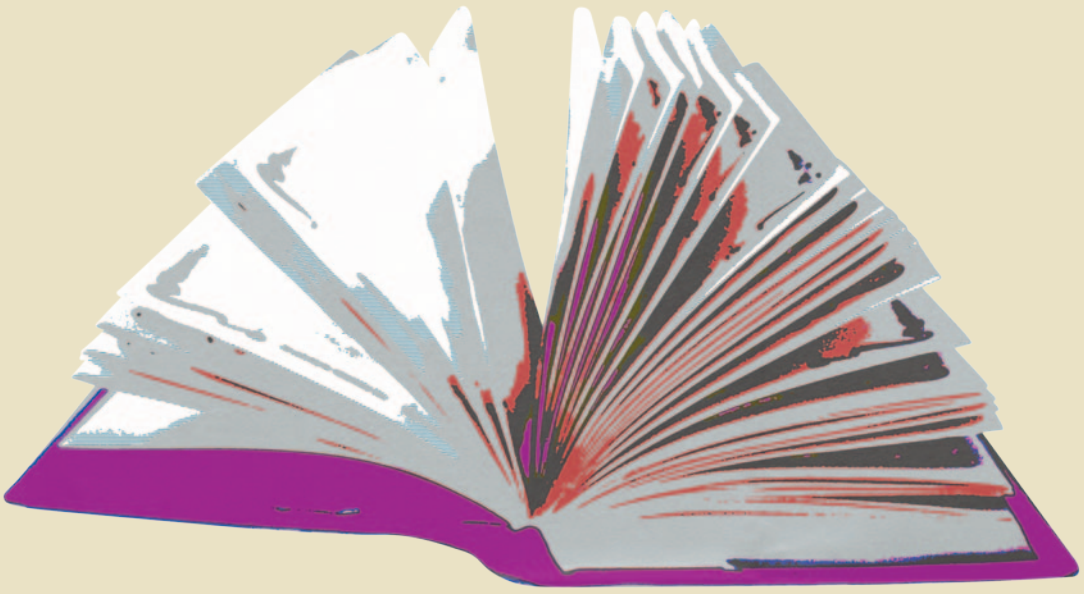
And I laughed, and he laughed. We were in a panic of laughter for a good few minutes. I went home,and the next day I went back to the library and I cross referenced what had happened. I spoke to the security guard and he’d said that he’d had a major argument with the lady who had reported me. He’d told her that he could vouch for me, that he had known me for five years, and that he would send his own children with me.

She said to him: ‘Third generation British, doesn’t mean a thing’ and that ‘there were too many red flags’ and ‘you should have seen what he was reading’.

All of a sudden it wasn't funny anymore. All sorts of thoughts were going through my head, and I became quite livid actually, because it was an attack on my credibility. So I put a complaint in, before they had a chance to do anything. After the meeting with the complaints manager, this lady and the security guard, I got a letter saying that this lady had acted well within her rights. The first question that I'd been asked in this meeting was 'How would you describe yourself?'

It accelerated to the next stage, but by that point I wasn't going to university anymore, and I wasn't reading books on anything close to these subjects. It affected me very badly. I was looking over my shoulder constantly, which I've never done. I've never lived in a suspect society. I had to watch what I said. I was walking on eggshells. I had to change my whole persona. When you suppress yourself like this, it has a profound psychological effect on you. You become depressed because you are not able to articulate yourself. I became very very depressed.

- Mohammed Umar Farooq, reported and questioned under PREVENT as a "terrorism" risk for reading a book on terrorism, cleared and received an official apology



The ‘counter-extremist’ subset of counter-terrorism, such as PREVENT, has been most forthright with this political policing function, as the recent turn to targeting and capturing more ideologies as ‘extremist’[37,38] has indicated.

But counter-extremism is not counter-terrorism gone rogue.

> *Counter-extremism is not counter-terrorism gone rogue. Rather, the relative flexibility it is afforded by executive powers means that counter-extremism often serves as a testing ground to normalise and mainstream surveillance and political policing which can then be enshrined into CT law.*

This can be illustrated by the development of PREVENT from policy into statutory duty with the Counter-terrorism and Security Act 2015.

The story of TACT and British counter-terrorism is not only a nationally bounded one, it has had ramifications across the world - both in terms of the global proliferation of counter-terror regimes over the past two decades, and the international reach of TACT powers.

The proscription regime[39] has been used as a tool to undermine resistance movements and movements for self-determination, sometimes with devastating effects.

In December 2000 the Liberation Tigers of Tamil Eelam (LTTE) declared a unilateral ceasefire with the Sri Lankan government, from a position of military strength and with hopes of leveraging a political resolution to the civil war.

Their hopes were all but dashed once they became among the first groups proscribed under TACT in March 2001, and as the British government then lobbied for their banning in the EU whilst rearming the Sri Lankan government[40].

Proscription served as an explicitly political power by the British government in support of their allies, contributing to the eventual defeat of the LTTE in 2009 and the massacre of tens of thousands of Tamils by the Sri Lankan government[41,42,43].

RACISM & DISCRIMINATION

Introduced a mere year after the Macpherson Inquiry's seminal judgement of institutional racism in the police and two years after the Human Rights Act 1998 was passed, TACT has helped rehabilitate and re-enshrine racism into law, with the widespread criminalisation of Muslims and/or foreign nationals by CT policing.

The impact of racist CT resonates far beyond the directly-affected communities, however. As we have argued elsewhere[44], 'counter-terrorism' and 'counter-extremism' have been vehicles for the wholescale securitisation of British society[45], and negating the small gains towards anti-discrimination made under multiculturalism.

The repeated declaration by European leaders that 'multiculturalism [has] failed'[46,47,48] - in the face of far-right, and often explicitly anti-Muslim and xenophobic agitation around the turn of the previous decade - reflected a fundamental shift in governance.

It signalled a break from 'social inclusion' policies, towards more stridently nationalistic and assimilationism social policy - and in the case of the UK, the ethos of an interventionist 'muscular liberalism' .
The proliferation of counter-terrorism, counter-extremism and surveillance policies are central to this shift.

Consequently, they have made possible the right-wing lurch seen across Europe and the world over the last decade.

The report Islamophobia in Europe: How governments are enabling the far-right 'counter-jihad' movement by Aked, Jones and Miller[50] documents how the language and framework of 'counter-terrorism' and 'counter-extremism' have been readily adopted by a subset of the modern far-right to mobilise and entrench Islamophobia - in turn legitimising further CT laws into public policy.

Despite CT powers now being used against sections of the far-right to a larger extent, the fact is that the relationship between the far-right and counter-terrorism over the last two decades has been more symbiotic than it has been antagonistic.

Insights on CT policing in action shine a light into the racist attitudes that have been embedded in the system.

Former CT officer Kevin Maxwell has gone on record stating that police 'treat certain ethnic, religious or national groups as inherently suspect' and that "You will get some officers who will target on the basis of race and the flight [the individual's] just come from, because that's the way he or she's wired"[51] .

A 2009 report by the Police Foundation into CT policing included the anecdote that "During observations of London neighbourhood policing teams, an officer who regularly conducted Section 44 stops told me that who to stop was 'subject to interpretation' and that officers tend to 'lookout for Asians obviously"[52].

CAGE's perspective is that the racism and Islamophobia inherent in TACT and CT are a corollary of the wider political climate in which they arose.

> *It is disingenuous to reduce racist application of TACT powers to the actions of overzealous officers, when the wider political and media discourse primes them to see Muslims and/or non-white people as threats*

We also understand the racism inherent in TACT as integrated within a wider analysis of its repressive and coercive functions; its racism is not free-floating or irrational, it serves a purpose.

Importantly, we do not consider 'equalising' TACT - by, for example, targeting non-Muslims more proportionate to their Muslim counterparts - to be any kind of solution.

This would simply distribute the damaging effects of TACT, rather than diminish them, or - as is our goal - abolish them in favour of deep and positive systemic changes.

Nor do we entrust CT police forces, who have specialised in targeting and terrorising Muslims, with tackling the issue of the far-right - anymore than we could entrust an arsonist with tackling a forest fire.

"Our stop went from terrorism, to incitement, to parenting - they were looking for anything."

They kept asking what we had been doing, and where we had gone. But on holiday, every single meal we'd had, we'd done as a family together, and we always did every activity together. I gave the officers my phone and even indicated when they had missed finding the SD cards. We co-operated fully. We even handed over our passports.

They kept picking on ridiculous things. They said, "You went there with expensive clothes", and I explained that we had bought them before we went on holiday, because that's what you do, you buy new clothes for holiday. They commented on my wife's jewellery, and I told them we had bought it in Dubai as it's a good investment, since this is what I have been raised to believe.

They took my wife for questioning, they tried hard to get her to take her hijab off. She refused. They kept saying "Oh, come on. Most other women take their hijab off when we ask them to, and they are religious."

They asked me all about my beliefs. Mine have changed over the years. I have been a practicing Muslim from age 21, and I have moved from a Hanafi background to a Sufi background, then I went on to study more contemporary studies. So my views have changed. They know my beliefs have changed. And yet they always asked me why.

The whole time during this Schedule 7 stop, they wouldn't give us much information about our kids, or what they were doing with them. It was very stressful. We asked about them. They kept saying "The children are so talkative, they have given us so much information".

But I knew this was a lie, because we don't talk to our kids much about politics. Later, we f they asked the children other questions. They even asked my daughter if we hit them, and if we leave them in our home alone. We don't do either of those things, so the answer was always no.

Still, the Schedule 7 stop went from terrorism, to incitement to terrorism, to whether we hit our kids or leave them home alone.Later, social services came to my house. When they did, they asked the children all types of questions about life at home, what we do, what we say, what we watch.

They wanted to speak to the children alone, and we made it known to them that we would never allow that. I argued that they'd had a time limit in which they had to intervene. We had looked at the law, and my wife had seen that based on the Schedule 7 law, they had three or four months to intervene after a stop if there was cause for concern.

A bit later, we got a letter in the post, from the head of social services in our local authority, who was present at the airport at Schedule 7. This letter said they wanted to take us to court. It said there was a special procedure, that it would be forced on us.

One of their concerns was the risk of flight. This, even though we voluntarily handed our passports over! That was weird.

To top it all, my son, who was 8 then, had been diagnosed with cancer and had spent three months in intensive care. He was in hospital and he'd had a cardiac arrest. They were aware of that, and yet they still said we were at risk of flight!

My wife and I like to question everything, and at the hospital, we had asked the doctors lots of questions about our son's medications - and that, they said, was a concern for them. We missed one appointment, and they brought that up. But we had missed the appointment, and before we had phoned and rescheduled and we hadn't missed the second appointment.

But this just shows that the doctors and nurses were also co-operating with them. But you see, these were petty things. We could tell they were looking and looking – because they couldn't find anything: there was no extremism, no problems with parenting and so on - they had nothing, nothing at all, and yet they kept looking.

- *Suleiman, Schedule 7 accelerated to a threatened child removal, cleared.*

SECURITISED POLICING

The impact on affected communities cannot be overstated: an entire generation of Muslims will have lived their entire lives in the shadow of TACT.

Those born since 2000 will have spent the last two decades keenly aware of the suspect status afforded to Muslims in the public imagination, have spent much of their education under the Prevent duty, may have gotten accustomed to the routine of preparing for Schedule 7 stops when travelling abroad - and perhaps even have come to accept all this as 'normal'.

The observation noted in Choudhury & Fenwick's 2011 report on the impact of CT measures on Muslim communities still holds true, that 'Counter-terrorism measures are contributing to a wider sense among Muslims that they are being treated as a 'suspect community' and targeted by authorities simply because of their religion… [and were] contributing towards hostility to Muslims by … and creating a climate of fear and suspicion towards them'[53]

But perhaps the graver threat is that two decades under TACT has contributed to a form of surveillance realism among Muslims and non-Muslims alike: inculcating the idea that there can be no society without mass surveillance.

For this reason it would be a mistake to look at the comparatively low number of arrests and prosecutions for terrorism - in relation to ordinary criminal law - as a reason to compartmentalise or minimise the impact of terror policing.

The impact of CT operations goes far beyond the individual(s) directly concerned - with the media blitz and political spectacle that often accompanies arrests ensuring they take on a wider resonance in British society.

It is also important to place TACT and CT within the broader context of policing and state violence, rather than externalising it as a separate phenomenon.

The techniques and technologies of counter-terror policing are brought back to bear on 'ordinary' policing, and the division between these two spheres is highly porous.

Moves towards routinely arming police have been made off the back of the 'terror threat' in recent years[54,55] for example, while shoot-to-kill practices have increasingly been deployed against terror suspects in recent years. Armed police have become a regular feature at major train stations, and Home Office operations such as Operation Servator involve the presence of visible armed police as 'a reassuring presence for the public' as part of anti-terror operations.

> *The spectacle of CT policing - especially police raids - forms part of the political economy of CT, by enabling CT forces to claim that 'something is being done' about political violence, and putting them in a better bargaining position for further funding and powers.*

The new Counter-terrorism and Sentencing Bill (CTSB) proposes to bring things full circle, further enmeshing CT law into criminal justice by expanding the range of criminal offences which can be considered, prosecuted and punished as "terrorist" or "terror-related"[59,60].

This will only aggravate the racialised and racist elements of the criminal justice system. The determining factor of whether an offence such as a stabbing is a 'standard' crime, a 'gang-related' crime or a 'terror-related' crime depends on whether the perpetrator is black or Muslim, respectively.

The CTSB also illustrates the increasingly paradoxical approach taken towards political violence in recent years.

At the same time that 'terrorist' crimes are being banalised - with a huge range of offences able to be prosecuted as 'terror-related' - the penalties for them are being exceptionalised - with the Bill proposing special custodial sentences and the scrapping of standard release conditions.

There is a serious danger of the securitisation of the criminal justice system more broadly, with this hyper punitive approach 'leaking' into ordinary criminal prosecutions in time.

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There is a serious danger of the securitisation of the criminal justice system more broadly, with this hyper punitive approach 'leaking' into ordinary criminal prosecutions in time.

"Because I looked Muslim and I had a Muslim name, I was a suspect"

I went through the electronic gate, and as soon as I'd passed through the gate, two people stopped me, and began asking me questions. They did not stop anyone else. There were a lot of people, between 50 to 100, in front of me. All these people were passing by, and I felt all eyes were on me. I am Asian looking, have a bit of a beard, so I felt like I was drawing a lot of unwarranted attention. They told me to come with them to the interview room. I work in the health sector, so we are bound by certain codes in terms of giving away information about people. Even saying who I visited was very uncomfortable for me. As a health care worker, it's just ingrained in you, this unwritten code that you don't give away people's details without their express permission. On top of that, I am a very private person.

They took my phone and after they did that, the phone didn't work. I don't know what they took off the phone but what worries me the most is that I use it for work, and I have about 60 to 70 staff phone numbers on it. We are bound by the GDPR, the data protection law, which means we cannot give this information to people without the express permission of the people involved. After a while, it seemed to me that their main concern was gathering the names and details of people in my contact list. This is extremely concerning for me.

Not only this, but I am a law-abiding person. To do the work I do, I have to maintain a clean record. The only thing I have on my name is a parking fine from about ten years ago. I don't violate the law. I was there for nearly three hours.

I haven't sat back. I put in a complaint against the police and it is being investigated. But I have no faith that it will be fair, because I've supplied a five-page long letter detailing it, and the officer who has been assigned to investigate, has been pushing to meet with me. There's no way I want to be seen coming out of a police station. I am a professional, educated person, and I work with the law all the time as part of my job..

- Shahil, Schedule 7 stop, profiling, surveillance

STATISTICAL OVERVIEW OF TACT[61,62,63]

PATHWAYS FOR TERROR-RELATED ACTIVITY

- **This chart illustrates how an individual might enter the counter-terrorism matrix.**

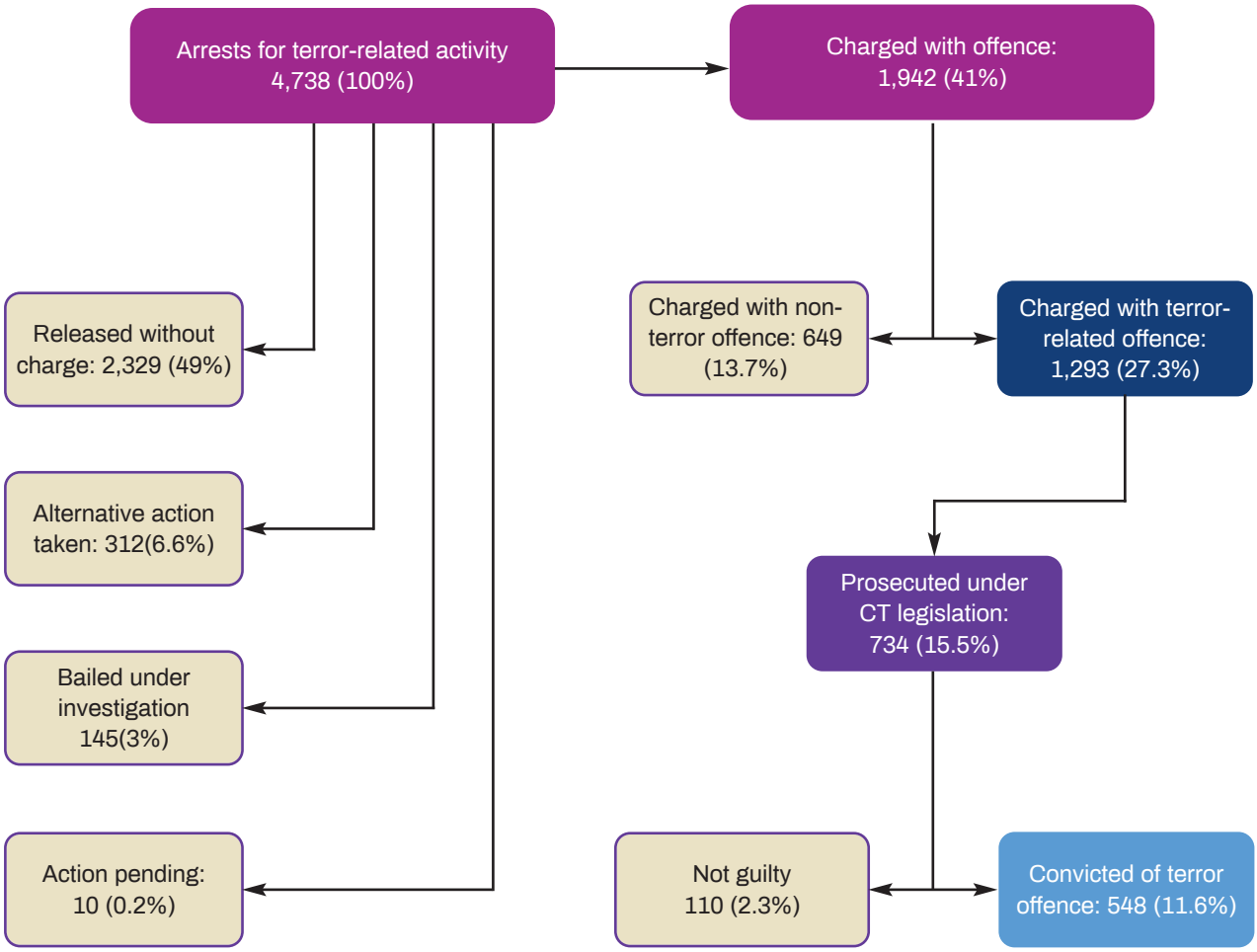

Figure A1: Pathways following arrests for terror-related activity[64]

BREAKDOWN FOLLOWING ARRESTS FOR TERROR-RELATED ACTIVITY, 2002-2020

Progression Of Terrorism Related Arrestees Where Charges Were Considered Terrorism Related					
Year Of Arrest	Arrests	Released without charge	Charged	Charged under terror legislation	Convicted
Mar-02	108	57	37	14	5
Mar-03	274	141	93	39	11
Mar-04	190	81	89	34	6
Mar-05	170	110	49	16	4
Mar-06	284	193	74	39	26
Mar-07	213	104	102	60	34
Mar-08	231	137	74	44	26
Mar-09	191	104	73	30	17
Mar-10	177	82	70	27	13
Mar-11	126	67	55	33	14
Mar-12	208	116	82	44	25
Mar-13	281	124	138	41	29
Mar-14	252	107	130	49	31
Mar-15	337	172	147	75	57
Mar-16	329	148	169	71	60
Mar-17	379	173	182	81	65
Mar-18	447	250	174	87	67
Mar-19	280	105	122	61	45
Mar-20	261	58	82	61	13
TOTAL	4738	2329	1942	906	548

Figure A2: Breakdown following arrests for terror-related activity, 2002-2020[65]

The stand-out figure from these statistics is that only 11.6% (548) of 'terror arrests' have resulted in terrorist convictions (Figure A1/A2) since the TACT statistics were recorded.

Almost half of all arrestees (49%/2,329) are released without action, while just over a quarter of arrestees are charged with a terror offence (27.3%/1,293).

However, the attrition between arrests and convictions is unlikely to command anywhere near as much media attention or bluster as the initial arrests.

Terror arrests, especially raids, often attract media attention and serve as a visible indicator that 'something is being done' and thus keep in motion a self-perpetuating cycle of legitimisation. But these statistics show that the reality away from the headlines often falls short of the impression created by them.

'Terror-related' offences include offences dealt with through dedicated CT legislation, as well as non-terrorism legislation where the offence is considered to be terrorism related.

Legislation such as the recent Terrorist Offenders (Restriction of Early Release) Act 2020 and the Counter-terrorism and Sentencing Bill have expanded the corpus of offences that can be prosecuted as 'terror-related' - such that an otherwise 'ordinary' offence such as GBH can be prosecuted as a terror offence, if the necessary ideological motivations can be identified.

Accordingly, those convictions can result in special extended sentences and post-release monitoring conditions.

These expansions have been brought about in part by the emergence of low grade crimes carried out by supporters of ISIS, but the danger is that they will greater enmesh and securitise the wider corpus of criminal law with the hue of counter-terrorism, and that sentencing will reproduce the racialised and discriminatory distinction between ordinary crimes and 'terrorism', resulting in harsher sentencing for Muslims in particular.

Though there is nothing yet to suggest that this expansion would significantly skew the figures in terms of terror conviction stats.

> *it is certainly worth noting that the bar for what constitutes a terror offence is getting lower, and so future statistical increases in the proportion of terror convictions may speak less of an increase in 'terrorism', and more about the net being widened further*

OFFENCES FOR CHARGES AND CONVICTIONS UNDER TACT LEGISLATION

- **Charges and convictions under TACT Legislation (totals until March 2020 by offence)**

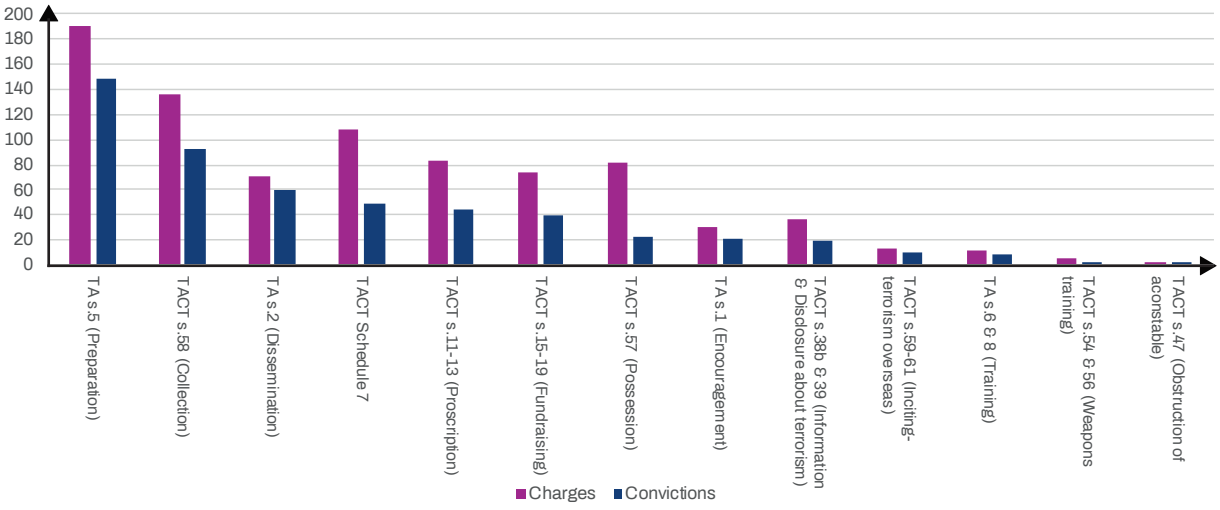

Figure B1: Charges for offences under TACT legislation, by offence, 2002-2020[68]

The most commonly used TACT offence for both charges and convictions is Section 5 of the Terrorism Act 2006 (Preparation offence) which constitutes 22% of charges/29% of convictions, followed by Section 58 of the Terrorism Act 2000 (Collection) which constitutes 16% of charges/18% of convictions.

Section 2 of TA 2006 (Dissemination) is used in 8% of charges but at 12% forms the third highest principal offence used for convictions, indicating a high conviction rate.

All these offences can be classed as 'pre-crime' and can criminalise information gathering/sharing rather than action per se.

Former Independent Reviewer of Terrorism Legislation David Anderson QC described them as '"precursor crimes"...[whose] effect is to extend the reach of the criminal law to behaviour which is or may be preparatory to acts of terrorism. Some have the additional or alternative effect of "net-widening", in the sense of catching persons whose connection with terrorist acts is at best indirect.'[70]

We consider these offences in more detail below.

◆ **Persons in custody for terrorism-related offences, by self-declared religion, as of March 2020**

The following three graphs illustrate that TACT is vastly skewed towards targeting Muslims.

Figure C1: Proportion of individuals in prison custody by religion as of March 2020[71]

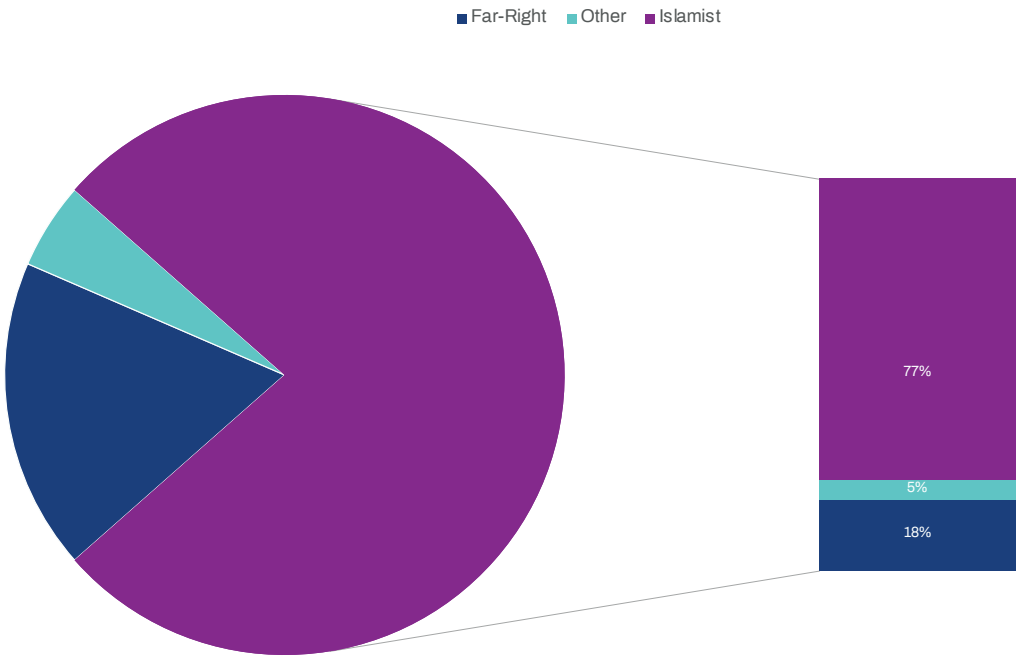

Figure C2: Persons in custody for terrorism-related offences, by self-declared religion, as of March 2020[72]

Today, the vast majority of individuals in custody for terrorism-related offences are Muslim (Figure C1), with 183 individuals constituting 77% of the 238 offenders in prison as of March 2020 (Figure C3).

Reflecting the trend of increased terror arrests and convictions and in the last half decade, the figure of terror offenders in custody has more than doubled since 2015 (from 94 in March 2015 to 238 in March 2020).

There has been a rise in non-Muslims prosecuted in recent years - primarily for far-right terror offences - with the proscription of far-right group National Action in late 2016[74] precipitating a broader pivot to target CT.

The concentration of Muslim in custody for 'terror' offences is significant not just on the statistical disparity in comparison to non-Muslims, but also for the political weight that has been attached to them.

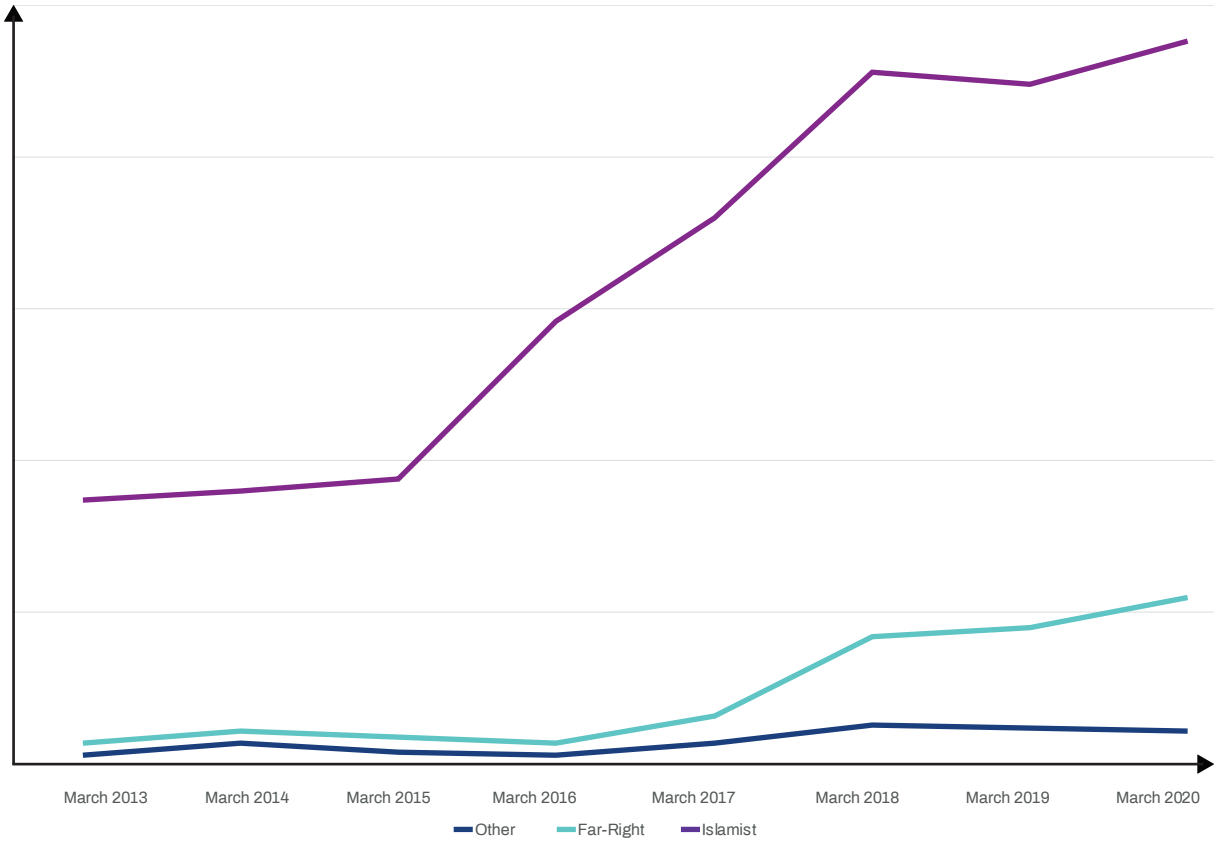

Figure C3: Number of individuals in prison custody by 'ideology', between 2013-2020[73]

Year	Other	Far-Right	Islamist
March 2013	3	4	80
March 2014	7	4	79
March 2015	4	5	85
March 2016	3	4	139
March 2017	7	9	164
March 2018	13	29	186
March 2019	12	33	179
March 2020	11	44	183

In recent years there have been calls and moves to create specialist wings in prisons for terror offenders / extremist prisoners, in order to separate them from the regular prison population and curb the supposed radicalising effect these prisoners can have[75,76,77].

Given the current composition of those in custody, this risks creating effectively Muslim-majority segregated wings in prison. Any such Muslim-majority segregation wings will likely end up as laboratories for experimenting the harshest and most unjust practices on an exceptionalised subset of the prison population, before mainstreaming them for other prisoners.

Worse still, the way that the spectre of 'extremist'/'terrorist' prisoners is mobilised politically - the idea of prisons are "breeding grounds for terror" - has also justified the expansion of the prison regime and validated discriminatory perceptions of Islam and Muslims, and form part of a vicious cycle of stigmatisation, separation, exceptionalisation and securitisation that are part and parcel of the counter-terror regime.

The very notion of 'extremist' prisoners, or what constitutes extremism, draws upon securitised and Islamophobic ideas of Muslims and Islam.

Through this process, normative Islamic behaviour such as collective prayer and becoming more visibly religious, and Muslim prisoners congregating together, are perceived as signs of 'radicalisation'.

Indeed in his 2016 review of 'Islamist extremism' in prisons, probation and youth justice for the Ministry of Justice, former prison governer Ian Acheson identified the threat of 'extremist' prisoners as broadly as applying to *"aggressive encouragement of conversions to Islam; unsupervised collective worship, sometimes at Friday Prayers including pressure on supervising staff to leave the prayer room; books and educational materials promoting extremist literature available in chaplaincy libraries or held by individual prisoners; and "exploitation of staff fear of being labelled racist"*[78]

Maslaha's report Time to End the Silence: the experience of Muslims in the prison system captures the securitisation of Muslims in the general prison population, which would only be intensified in the case of terror offenders.

It highlights that "When claims of extremism are made or people are reported for being radicalised (or radicalisers), they are typically based on stereotypes and often turn out to be unfounded"[79], citing testimonies of how "Unsupervised collective worship is considered a potential sign of the radicalisation process and … staff and other prisoners would react negatively to Muslims praying in groups together, in each other's cells or praying aloud"[80]

Additionally, the supposedly exceptional danger posed by 'extremist'/'terrorist' prisoners has been used as the basis for harsher sentencing and a more punitive approach to terror offenders[81,82,83], such as those proposed by the Counter-terrorism and Sentencing Bill and in the Terrorist Offenders (Restriction of Early Release) Act 2020, pushed through in February 2020 to block the release of individuals convicted of terror offences.

Despite research attesting to the comparatively low recidivism rate of so-called 'jihadi offenders' - 3% for prisoners released between January 2013 and December 2019 in England & Wales[84] - the political discourse on these offenders has given the impression of an imminent resurgence of violent terrorists on Britain's streets[85,86].

Instead of accepting the less exceptional - but perhaps less politically comfortable - interpretation that prisons are pressure cookers for violence, distress and alienation in the broadest sense of the word, and that moves away from mass incarceration are needed, we have seen a ratcheting up of the punitive response.

The law and order turn in the last few years, and the particularly punitive turn found in the most recent CT legislation, signals a move to effectively disavow rehabilitative practices in favour of keeping individuals trapped in a cycle of prison and surveillance indefinitely.

In sum, as with CT prosecutions on the whole the issue is less the matter of figures and statistics, than the political premium attached to them.

The stigma and fearmongering attached to Muslim-majority terror offenders has served to validate the hard arm of policing, and undermine the very notion of rehabilitation.

We should expect this to have ramifications for the criminal justice system on the whole, as a part of a broader law and order agenda that has become increasingly evident under successive government administrations.

PROGRESSION BY YEAR

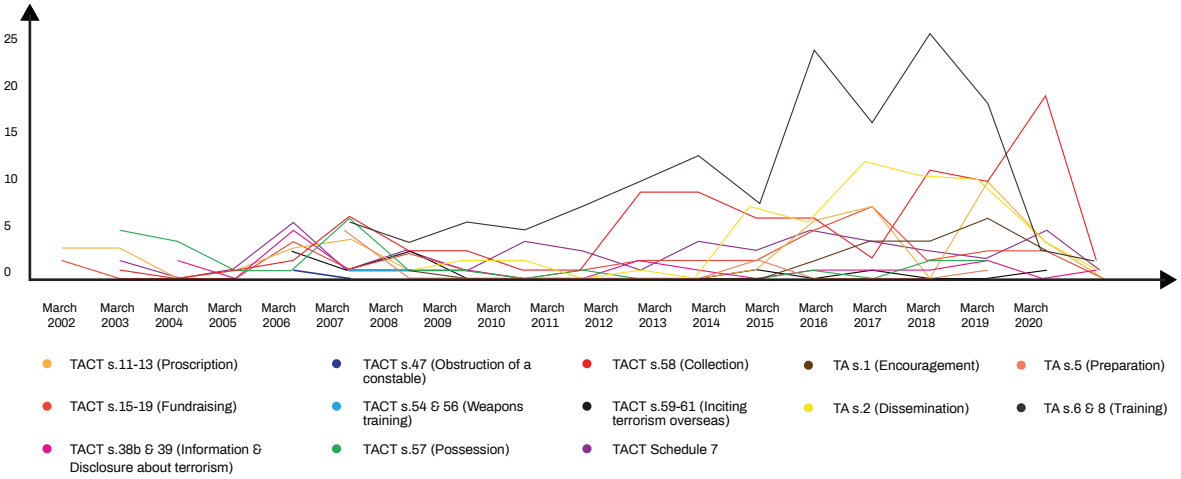

Figure D1: CONVICTIONS under TACT legislation, 2002-2020[87]

Figure D1 tracks convictions under TACT legislation between the years to March 2002 and March 2020.

There is a 'spike' in convictions between the years to March 2006-2008, following the 7/7 attacks in London and a more sustained rise and spike following the onset of the Syrian civil war and then the rise of ISIS.

Over half of all TACT convictions took place in the period March 2015-2019, following ISIS's declaration of itself as the Caliphate in 2014.

Unsurprisingly, nationals of the UK and Ireland form the vast majority of arrests overall, with 2,937 arrests (62%).[88,89]

There are, however, a high proportion of Individuals of nationalities from the Middle East & North Africa (699 arrests/14.8%), South, West and Central Asia (520/11%) and Western & Northern Europe (192/4%) reflected in the arrests also.

Specific countries stand out as well.
Algerian nationals formed 194 arrestees overall, and between the years to March 2002-2003 more Algerians were arrested (64) than for any other non-UK/Irish nationality in TACT's history.

170 Pakistani nationals have also been arrested with an uptick in the years to March 2006-2008, and 82 Somali nationals, with a surge in the year to March 2006.
Iraqi (172) and Iranian (91) nationals have also been represented in arrests.
The arrest of foreign nationals is important to consider within the context of CT policing

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Iraqi (172) and Iranian (91) nationals have also been represented in arrests.
The arrest of foreign nationals is important to consider within the context of CT policing because upon its introduction, TACT solidified a nexus between anti-migrant and anti-terror powers.

Some of the most sweeping and heavy handed powers granted under TACT and CT have primarily targeted foreign nationals - such as control orders and SIAC procedures - before being used on the domestic British population.

“They are wasting taxpayers money, but for them it's a success because the numbers are up”

When I was questioned by the immigration officer at the front desk, and asked to go to the back, I refused. I said ‘I’m with my kids’. The officer said: “We will take your kids away”. When he said that, I fixed my rucksack firmly on my back, with both straps. I put it on tightly, as if I was preparing for something. This was an instinctive reaction. The officers saw this, and suddenly about six or eight of them jumped on me and physically dragged me off.

Someone was holding my head down so I couldn’t see my children. I was shouting. I was telling people there to record what was going on. I couldn’t see my kids. I was trying to speak to them, and I told my children to go ahead, to just go through. My kids were just left standing there. They must have been terrified; one of them was just three years old.

I was detained and then taken to the back office. My concern at this stage was just my kids and what was happening to them. I don’t know where they were taken. For about 30 minutes they were without their parents, and they didn’t know what was going to happen to them.

When they detained me, they read me the Schedule 7 law. I said to them ‘I am not going to talk to you, you’re taking my children away from me’. Imagine someone separates you from your children and then they start asking you all these silly questions, while all the time you’re just thinking about what is happening to your children? They charged me with obstructing the Schedule 7 law. I was arrested and taken to the police station. During that time I was saying to myself,

these people are pathetic, really, that this whole thing was completely unnecessary. I mean, I have done nothing.

But this law is something that they have been pursuing for years, and after being stopped as many times as I have, you get to a zero-tolerance stage. They are really wasting taxpayers' money more than anything else. But for them, it's a success because they are getting convictions. They're pushing the numbers up.

You can never tell the long-term effects of these things on children. There is a lot of stress, and you really just can't tell how this is going to play out later on in their lives.

- *Mohammad, stopped under Schedule 7 while with his children.*

SPECIFIC POWERS

Year	March 2002	March 2003	March 2004	March 2005	March 2006	March 2007	March 2008	March 2009	March 2010	March 2011	March 2012	March 2013	March 2014	March 2015	March 2016	March 2017	March 2018	March 2019	March 2020	**Total since Sep 11 2001**
Charges	-	2	-	2	3	6	4	4	3	1	10	10	7	8	2	16	16	21	21	**136**
Convic-tions	-	1	-	1	2	6	3	3	1	1	9	9	6	6	2	11	10	19	2	**92**

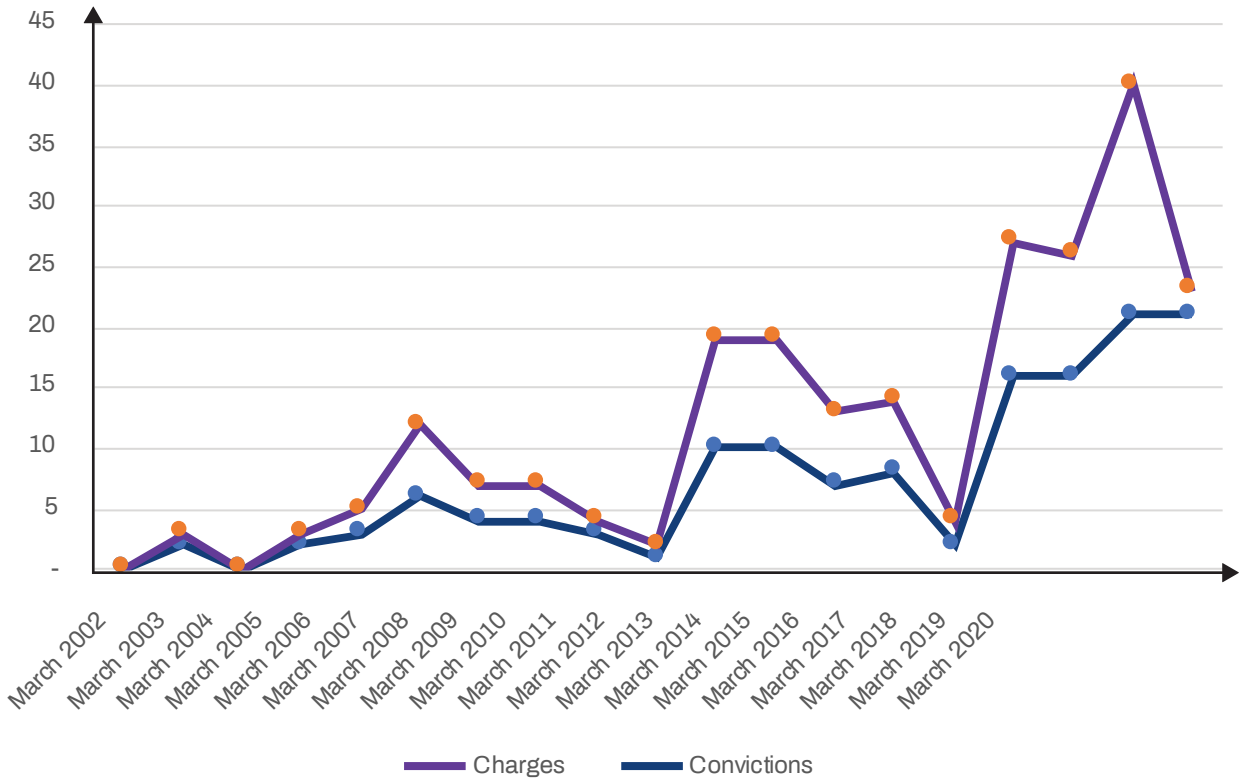

Figure E1: Charges and Convictions for Section 58 (TACT), between 2002-2020.[91]

Section 58

Section 58 of TACT is currently defined as such:

(1) A person commits an offence if—

(a) he collects or makes a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism,

(b) he possesses a document or record containing information of that kind, or

(c) the person views, or otherwise accesses, by means of the internet a document or record containing information of that kind.

Out of the TACT 2000 offences, s.58 is the offence which has been used in the most charges and convictions since 2000 (136 charges and 92 convictions as of March 2020).

S.5 of the Terrorism Act 2006, discussed below, is the single most-used terror offence overall.

Significantly, s.58 makes it an offence to collect information 'likely to be useful to a person committing or preparing an act of terrorism' - rather than requiring proof that the information was for terrorist purposes in of itself, thereby making it an extremely malleable and powerful law.

While clause (3) of s.58 permits a 'reasonable' excuse defence for their prosecution, what this oftentimes erases is the fact that an individual can be arrested, detained, and investigated before they are able to actually offer their so-called reasonable excuse 'defence' for possessing a document.

Therefore, s.58 can be used by the police as a means of legally justifying dragging somebody into the counter-terror policing matrix, before taking further action or no action against them.
Section 58 was most recently amended by the Counter-terrorism and Border Security Act 2019, which extended it to cover viewing material (videos and documents) online[93].

During the Parliamentary debate on the Act, this amendment was justified on the basis that new technology – such as video streaming – made it easier to access 'radicalising' content online[94], but effectively it was one in an increasing number of post-2010 developments to securitise the online space.

Since the turn of the last decade, there has been a concerted effort on the part of governments worldwide to emphasise and tackle 'radicalisation', 'extremism' and 'terrorism' online, which has kicked into overdrive since the rise of ISIS.

This drive has seen an exponential growth in the global counter-extremism and counter-terror apparatus, and an increasingly porous relationship between governments and private enterprises in tackling terror[95] with little oversight or accountability.

> *"Upon its introduction, TACT solidified a nexus between anti-migrant and anti-terror powers ... Some of the most sweeping and heavy handed powers granted under TACT and CT have primarily targeted foreign nationals."*

Year	March 2002	March 2003	March 2004	March 2005	March 2006	March 2007	March 2008	March 2009	March 2010	March 2011	March 2012	March 2013	March 2014	March 2015	March 2016	March 2017	March 2018	March 2019	March 2020	**Total since Sep 11 2001**
Detentions	not available	not available	not available	not available	not available	not available	not available	not available	not available	913	680	667	517	1311	1821	1530	1776	1832	2088	136
Examinations	not available	not available	not available	not available	not available	not available	not available	not available	85557	65684	63902	57621	44118	31769	26167	18103	15391	11154	8311	92

Figure F1: Examinations and Detentions for Schedule 7 stops, between 2002-2020[96]

Schedule 7

Schedule 7 permits officers to conduct suspicionless stop, searches, interrogations and detention of up to 6 hours at air and seaports for the purpose of determining if an individual, or have been 'concerned' in the 'commission, preparation or instigation of acts of terrorism'.

Schedule 7 stops compromise up to 3 levels: Screenings, Examinations and Detentions.

Under the power, individuals stopped are legally obliged to:

- Answer all questions asked by the examining officer;
- Submit to a search on one's person and/or luggage;
- Provide biometric data including fingerprints and DNA;
- Surrender any electronic devices and relevant passwords on one's person.

Schedule 7 is the most broadly used TACT power of all, and in the period between March 2010-2020 for which stats on Examinations are available, 427,777 Schedule 7 Examinations were conducted.

This is without accounting for off-the-books Screening stops which aren't included in the stats.

Extrapolating for the first decade of TACT's operation for which Schedule 7 figures aren't available, it is likely that the actual number of Examinations overall exceeds 1 million.

Based on the statistics there is strong evidence to suggest that Schedule 7 stops are based on racial profiling.

For Schedule 7 stops between 2011 and 2020, 53% of Examinations[97] were carried out by individuals who declared their ethnicity to be 'Asian or Asian British', 'Black or Black British' and 'Chinese or Other' (the latter of which, for the purposes of Schedule 7 monitoring, includes Arabs of Middle Eastern/North African descent)[98].

This discrepancy becomes even more pronounced in Detentions following Examinations, where the number of individuals Asian, Black or Chinese or Other detained jumps to 70.2% of all Detentions[99].

In addition there are anecdotal testimonies such as those of ex-SO15 officer Kevin Maxwell, who states that "Black and Asian people were deliberately targeted on grounds of their race and colour" for Schedule 7 stops during his time at Heathrow airport[100].

Unfortunately, a number of appointed Independent Reviewers of Terrorism Legislation, past and present, have gone out their way justified this discriminatory practice.

Current Reviewer Jonathan Hall QC states in his report on the use of CT legislation in 2018 that despite the disproportionate use of Schedule 7 stops on those who self-define as Asian or Chinese or Other

"This does not necessarily mean that Schedule 7 is being used in a manner which is unlawful. This is because Schedule 7 is not intended to be a randomly-exercised power. Rather, in deciding whom to select for examination, port officers "must be informed by the threat from terrorism to the United Kingdom and its interests posed by the various terrorist groups, networks and individuals active in, and outside the United Kingdom"[101]

Similar sentiments were echoed by former reviewer David Anderson QC, yet they merely operate on a circular logic - by legitimising racialised notions of the 'terror threat', they can justify the racist use of counter-terror powers.

Ethnicity is however at best a haphazard proxy for religion, and despite calls the government has refused to release statistics on stops by religion.

Operation Insight, a study conducted by students at Cambridge University found that in its sample of those stopped at a particular airport, 88% were Muslim[102].

Additionally, Jonathan Hall QC's information gathering included the anecdote that CT police have been arguing that "an individual's religious practice may be relevant to understanding motivation and social networks of importance to a terrorist investigation"[103], further suggesting that reductive ideas about faith are being mobilised in CT policing.

Perhaps more than any other CT power, it is Schedule 7 stops that have become most deeply embedded in the cultural world of Muslims in Britain[104,105] - airport harassment is a key part of the experience of 'traveling while Muslim'.

Yet Schedule 7 cannot be reduced to a mere nuisance.It is a massively invasive power, and the ability for officers to demand passwords has been described by campaigners as amounting to a 'digital strip search'[106,107] and serves as a tool for mass intelligence gathering.

Schedule 7 stops can also serve as a gateway to escalating forms of CT, and our casework has included individuals for whom a Schedule 7 stops leads on to PREVENT referrals, MI5 harassment, child custody battles and more.

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Section 5

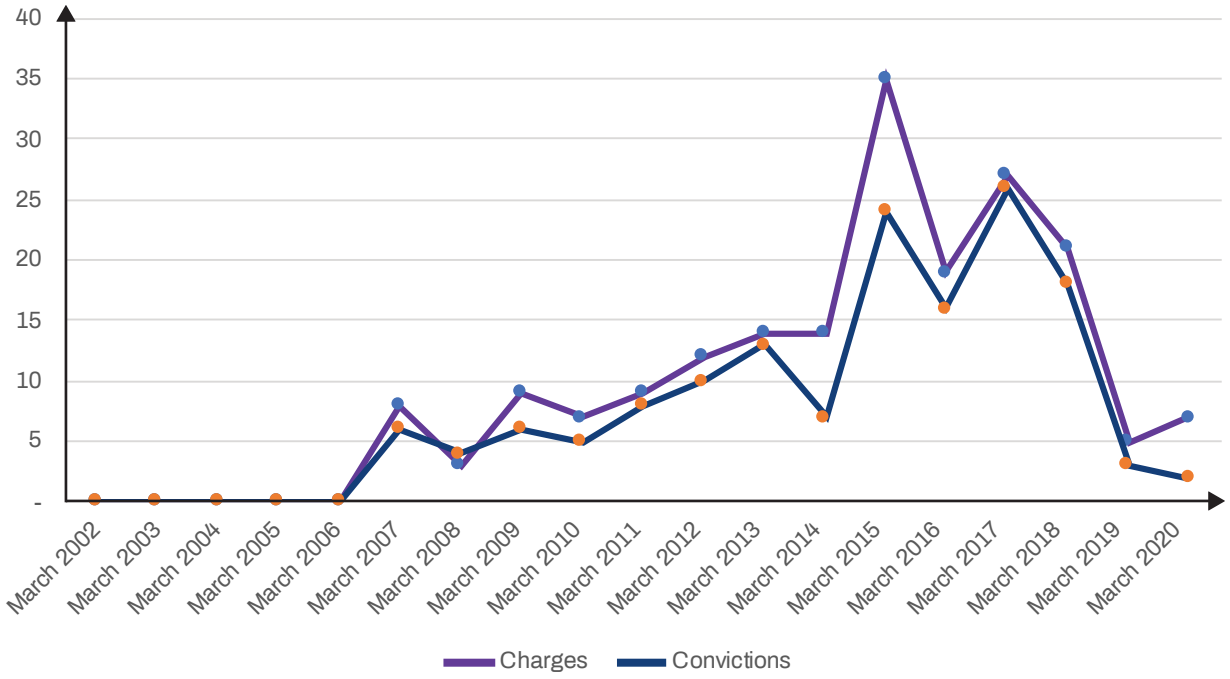
Section 5 of TA 2006 is currently defined as such:

(1) A person commits an offence if, with the intention of—
  (a) committing acts of terrorism, or
  (b) assisting another to commit such acts,he engages in any conduct in preparation for giving effect to his intention.

Figure G1: Charges and Convictions for Section 5 (TA 2006), between 2002-2020[108]

Year	March 2002	March 2003	March 2004	March 2005	March 2006	March 2007	March 2008	March 2009	March 2010	March 2011	March 2012	March 2013	March 2014	March 2015	March 2016	March 2017	March 2018	March 2019	March 2020	**Total since Sep 11 2001**
Charges	-	-	-	-	-	8	3	9	7	9	12	14	14	35	19	27	21	5	7	**190**
Convic-tions	-	-	-	-	-	6	4	6	5	8	10	13	7	24	16	26	18	3	2	**148**

Figure G2: Charges and Convictions for Section 5 (TA 2006), between 2002-2020[109]



The creation of an offence for the preparation of terrorism was recommended by Tony Lloyd's 1996 Inquiry, but was introduced in the Terrorism Act 2006 instituted following the 7/7 attacks, rather than in TACT 2000.

Regardless, s.5 is the most frequently-used of any terror offence on the books for charges and convictions, being used in 190 charges and 148 convictions to date.

There is a spike in usage of s.5 between 2014 to 2017 - during which time 54% of all s.5 charges and 57% of convictions took place[110].

This spike can be attributed to its use in prosecuting 'foreign fighters' travelling to support various forces in the Syrian civil war – something that was made further possible by the 2015 Serious Crime Act's extension of s.5's jurisdiction abroad[111].

Crucially, this coincided with a shift in stance by the British government towards individuals travelling to join the Assad government, which they had previously supported in its earlier years.

"The uptick in Schedule 5 charges cannot be used to indicate a greater threat or better counter-terror policing; they indicate, essentially, a shifting of the goal posts."

The extended jurisdiction of the power also highlights how the 'domestic' counter-terror regime is being used to police allegations of crimes abroad.

TACT has developed into a global apparatus of surveillance and policing, enabling the British government to use its politicised body of offences to project force and police individuals across the world.

Also notable about s.5 is its breadth of scope in defining a preparatory act. Indeed current Independent Reviewer of Terrorism Legislation Jonathan Hall QC notes, the remit of s.5 "draws otherwise innocent acts, such as arranging transport, if done for the benefit of a proscribed group, into a pool which contains more obvious acts of terrorism such as firing weapons"[112].

Meanwhile in sentencing there are six levels applied ranging from acts "which amount to attempted multiple murder or to a conspiracy to commit multiple murder –but [where] no physical harm has been caused" down to "one who never sets out or who sets out but does not, or cannot go very far or who has a minor role in relation to intended acts"[113].

Section 1

Section 1 & 2 TA 2006 [Encouragement & Dissemination of Terrorist Publications]
Section 1 of TA 2006 is currently defined as such:

(1) This section applies to a statement that is likely to be understood by a reasonable person as a direct or indirect encouragement or other inducement to some or all of the members of the public to whom it is published, to the commission, preparation or instigation of acts of terrorism or Convention offences.

(2) A person commits an offence if—
(a) he publishes a statement to which this section applies or causes another to publish such a statement; and
(b) at the time he publishes it or causes it to be published, he
(i) intends members of the public to be directly or indirectly encouraged or otherwise induced by the statement to commit, prepare or instigate acts of terrorism or Convention offences; or
(ii) is reckless as to whether members of the public will be directly or indirectly encouraged or otherwise induced by the statement to commit, prepare or instigate such acts or offences.

and Section 2 as:
(1) "A person commits an offence if he engages in conduct falling within subsection (2) and, at the time he does so—
(a) he intends an effect of his conduct to be a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism;
(b) he intends an effect of his conduct to be the provision of assistance in the commission or preparation of such acts; or
(c) he is reckless as to whether his conduct has an effect mentioned in paragraph (a) or (b).
(2) For the purposes of this section a person engages in conduct falling within this subsection if he—
(a) distributes or circulates a terrorist publication;
(b) gives, sells or lends such a publication;
(c) offers such a publication for sale or loan;
(d) provides a service to others that enables them to obtain, read, listen to or look at such a publication, or to acquire it by means of a gift, sale or loan;
(e) transmits the contents of such a publication electronically; or
(f) has such a publication in his possession with a view to its becoming the subject of conduct falling within any of paragraphs (a) to (e)."

> *The threshold for a prosecution is where an individual is 'reckless' as to the effect their conduct may have on the behaviour of others, which is a far lower threshold for a conviction than intention. It can effectively amount to guilt by degrees of separation, and in recent years individuals have been convicted for re-tweeting content to followers online.*

Year	March 2002	March 2003	March 2004	March 2005	March 2006	March 2007	March 2008	March 2009	March 2010	March 2011	March 2012	March 2013	March 2014	March 2015	March 2016	March 2017	March 2018	March 2019	March 2020	**Total since Sep 11 2001**
Charges	-	-	-	-	-	-	1	-	-	-	-	-	1	3	2	6	8	5	5	**31**
Convictions	-	-	-	-	-	-	1	-	-	-	-	-	0	2	4	4	7	3	0	**21**

Figure H1: Charges and Convictions for Section 1 (TA 2006), between 2002-2020[114]

Year	March 2002	March 2003	March 2004	March 2005	March 2006	March 2007	March 2008	March 2009	March 2010	March 2011	March 2012	March 2013	March 2014	March 2015	March 2016	March 2017	March 2018	March 2019	March 2020	**Total since Sep 11 2001**
Charges	-	-	-	-	-	-	2	3	1	-	1	-	7	6	13	12	14	3	8	**70**
Convictions		-	-	-	-	-	1	2	2	-	1	-	7	6	13	12	11	4	1	**60**

Figure H2: Charges and Convictions for Section 2 (TA 2006), between 2002-2020[115]

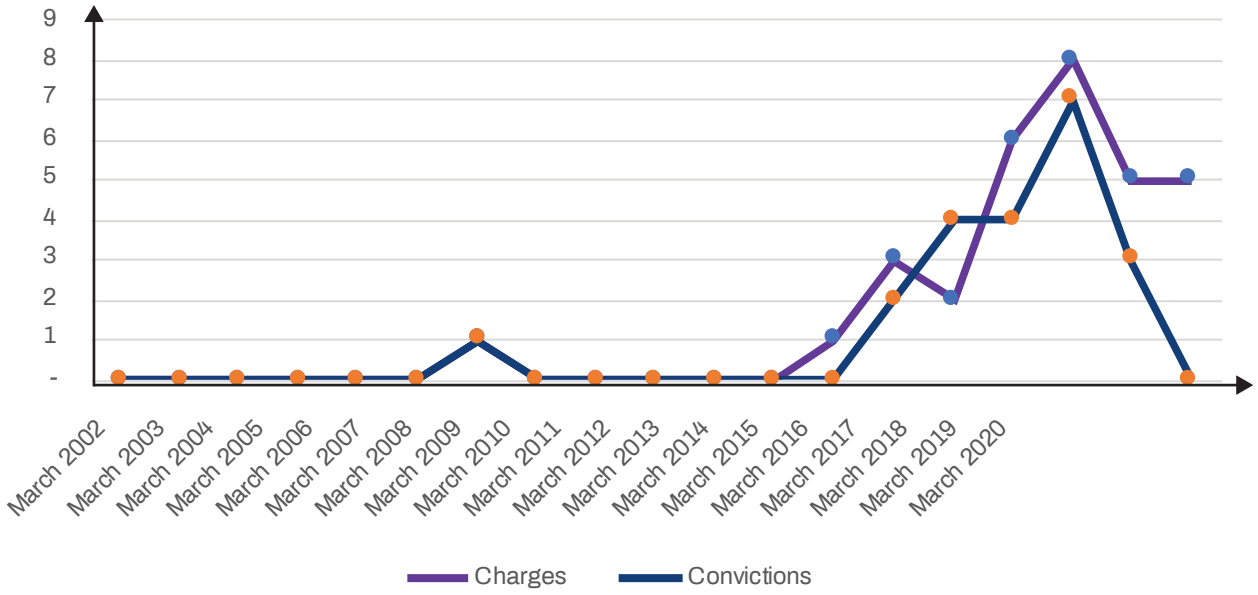


Figure H3: Charges and Convictions for Section 1 (TA 2006), between 2002-2020[116]

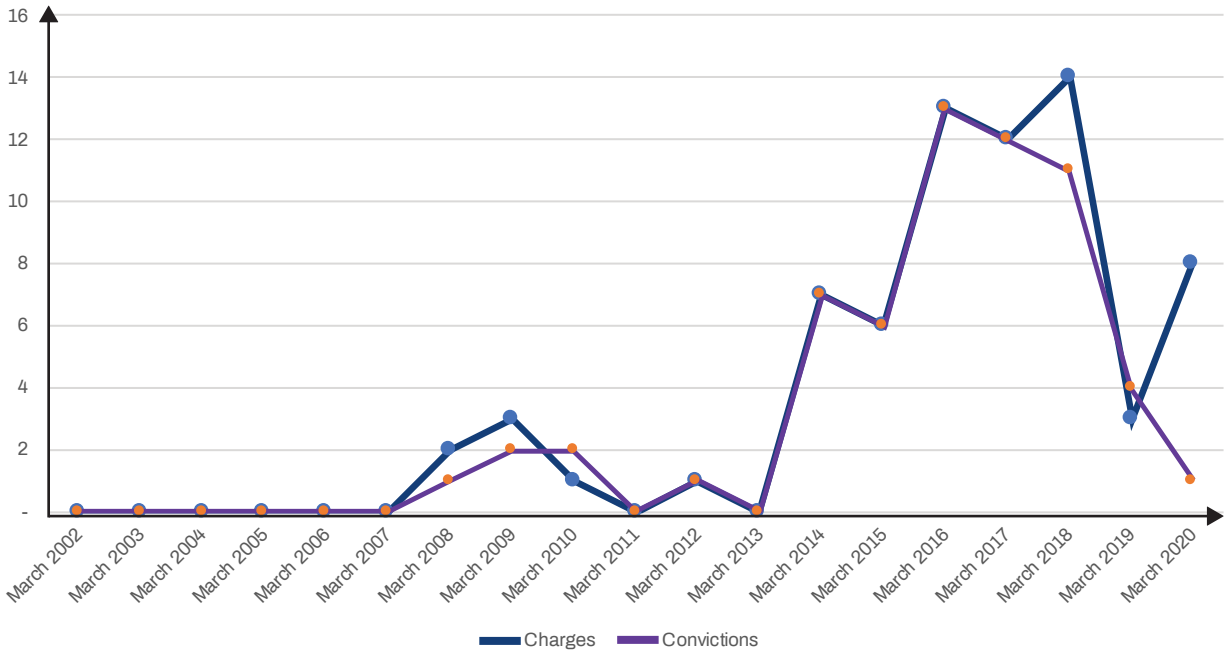


Figure H4: Charges and Convictions for Section 2 (TA 2006), between 2002-2020[117]

Though neither Sections 1 or 2 of TA 2006 have been used in a large number of prosecutions, what is notable about the powers is the low evidentiary standard required for a prosecution.

The threshold for a prosecution is where an individual is 'reckless' as to the effect their conduct may have on the behaviour of others, which is a far lower threshold for a conviction than intention.
It can effectively amount to guilt by degrees of separation, and in recent years individuals have been convicted for re-tweeting content to followers online.

Sections 1 & 2 have most recently been amended by the Counter-terrorism and Border Security Act 2019, which extended the maximum sentence for both offences up to 15 years[118] - over twice the European average terror sentence[119].

There was an uptick in charges and convictions of both s.1 and s.2 between 2016-18, relating to prosecutions of individuals sharing or re-posting ISIS propaganda on social media such as Twitter - which constituted the vast majority of convictions for these offences during this time[120].

This reflects the broader trend towards using British TACT powers in response to political developments abroad.

Yet these powers do not account for the different circumstances that surround on-going conflicts in the world. Rather, they lump together as disparate contexts as ISIS and national liberation struggles into the catch-all category of 'terrorism', and ultimately skew the figures and public discourse around political violence.

When coupled with the ever-widening scope of groups designated as 'terrorist', and the politicised nature of the 'terrorist' category itself, there is a distinct danger of discussion and engagement with legitimate political actors being criminalised.

This would in turn have a deleterious effect on the ability to discuss and consider complex international issues and conflicts, and would effectively impose the government line on civil society and other non-violent movements and actors.

In some cases, such as that of the bookseller Ahmad Faraz[121], individuals have been convicted for lengthy terms after reading material and authors have been criminalised based on subjective interpretations of their work and superficial opinions given by witnesses set up as "experts" on Islam. Not only does this have devastating effects on an individual, but banning books, as has been the case in other countries, only has the effect of forcing opinions underground, where they are unable to be mitigated by others in an organic way.


The
Royal
Courts
of
Justice


The Royal Courts of Justice

RECOMMENDATIONS

As stated at the beginning of this briefing, addressing the harm caused since the introduction of TACT 2000 must deal with the offending pieces of legislation, as well as the wider socio-political context underpinning counter-terrorism since 2000, and the institutional footprint of CT in Britain.

Undoing the damage caused requires a break from the post-2000 status quo rather than a simple reorientation, reformism, or further internal reviews.

CAGE's opposition to TACT and the counter-terror complex is rooted in our vision for a more just society. We reaffirm our commitment to our 8 point plan towards healthy, safe societies outlined in our Beyond PREVENT report[122] , and we welcome the recommendations put forward by Blakeley et al's Leaving the War on Terror: A Progressive Alternative to Counter-Terrorism Policy report[123].

Below are a set of recommendations to begin to halt, account for and begin to reverse the harm caused by TACT and the resultant CT complex in the UK and beyond, some of which echo and/or compliment the recommendations put forward in Beyond PREVENT and by Blakeley et al.

We hope that more groups, in civil society and beyond, come forward to debate, deepen and expand on these proposals in the spirit of co-operation and a shared commitment to a more just society.

Our recommendations are grouped around 3 categories:

REVOKE

- Repeal all counter-terror laws instituted since 2000
- Abolish the Special Immigration Appeals Commission system and repeal the Special Immigration Appeals Commission Act 1997
- Cease the use of closed material procedures

Revoking the laws and apparatus of TACT and CT is a necessary first step, because as long as that architecture remains operational it will be utilised, and can be mobilised for future politicised 'threats'.

We have already seen Schedule 7 of TACT mirrored in recent legislation to tackle new threats, in the form of Schedule 3 of the Counter-terrorism and Border Security Act 2019, which permits suspicionless stops and searches 'for the purpose of determining whether the person appears to be a person who is, or has been, engaged in hostile activity'.

Pre-existing frameworks for prosecuting crimes of violence, pre-date TACT, concern themselves with actual acts or provable intentionality, and are adequate to deal with most of what constitutes political violence on their own terms.

Former Independent Reviewer of Terrorism Legislation Max Hill QC expressed similar sentiments when in this role, stating that Britain…

"[Has] the laws we need [to deal with acts of terrorism]...we should review them and ensure they ensure remain fit for purpose, but we should have faith in our legal structures, rather than trying to create some kind of new situation where the ordinary rules are thrown out."[124]

Revoking this is a crucial step to show that the government is committed to a new direction. This includes repealing all CT laws instituted since 2000 in order to dismantle the two-tier justice system that has undermined the principles of innocent before guilty and introduced a swathe of offences that can be prosecuted without needing to establish proper intent.

Acts of violence should be treated as criminal law matters through pre-2000 legislation such as the Offences Against the Person Act, while international matters amounting to war crimes or crimes against humanity can be prosecuted through appropriate internationally recognised statutes.

Strict liability offences - which don't require intent to be proven - that relate to possession of materials or the dissemination of ideas should be removed entirely from the statute book and any crimes that incite violence, should be dealt with as crimes of incitement.

Furthermore, the role of the SIAC system and closed material procedures/secret evidence is an affront to due process and the rule of law and must be stopped immediately.

REPAIR

- Initiate a public inquiry to review the long-term impact of creating suspect communities
- Initiate a commission for reparative justice for communities unfairly impacted by TACT powers

The impact of CT to both targeted communities and institutions such as the criminal justice system is deep and defies simple quantification, but the manner in which repressive counter-terror policies shifted so seamlessly from targeting the Irish pre-1998 to targeting Muslims and foreign nationals post-2000 indicates that there was no meaningful assessment of the damage caused by these powers in the first place.

Measures towards reparative justice must be taken to account for and properly address the deep harm caused by TACT and resultant CT complex to targeted communities, and to prevent the 'crosshairs' simply moving on to other communities in future.

RE-EVALUATE

i) Adopt CAGE's 8-point plan for healthy, safe societies
ii) Conduct a 'people's inquiry' towards building social security not 'national security'

Today, the framework of 'national security' and 'counter-terrorism' has totalised all spheres of social life: for all social ills, a CT-style system predicated on pre-crime and surveillance is proposed as a solution.

It is vital that we step outside of that framework entirely, and begin from a position seeking healthy, safe societies. Our 8-point plan towards this includes the calls to:

1) Scrap PREVENT
2) Abandon the frameworks underpinning PREVENT
3) Clean money: Restore social spending without strings
4) Secure an ethical foreign policy
5) Stop managing social issues through security measures
6) Reinstate a society where civil rights can be exercised
7) Decouple welfare and safeguarding from counter-terrorism
8) Repeal counter-terror laws instituted since 2000

The singular focus on 'countering terrorism' and 'national security' has had a corrosive effect on public and political discourse, and the wider public mindset. For the past two decades, British society's needs have been systematically subordinated to the demands of a CT complex that has been imposed on it - rather than being allowed any meaningful opportunity to evaluate and define its own needs.

As part of a post-TACT world, society needs to be given the opportunity to develop its own people-centred vision of what it means to be 'secure' that doesn't presume securitised outcomes.

Buy-in and consent for CT programmes over the last two decades has relied on tightly controlled Whitehall inquiries and reviews, and the annual renewal of the Prevention of Terrorism Acts from their introduction in 1974 highlights the danger of leaving oversight as a purely Parliamentary affair.
Meanwhile the media and political class' projection of a permanent terror threat, and the reliance on compromised 'community leaders', has served to exclude the public at large from a more authentic discussion on the issues that affect them, and insulate government policy from criticism.

A proper re-evaluation of society's needs needs to be wide-ranging, comprehensive and properly informed, rather than shallow focus group exercises to validate and rubberstamp pre-existing outcomes.

CONCLUSION

This report has focussed on the actual usage of TACT and TACT-associated powers, both statistically and based on case analysis, as well as their human impact.

It lays out our demands after 20 years of TACT, for a society beyond counter-terrorism securitisation and surveillance of everyday life.

We have published this report 20 years after the British counter-terrorism (CT) regime was made permanent with TACT, and today it has reached unprecedented levels.

A near-limitless policing apparatus, a parallel justice system undermining the rule of law and civil liberties for all, and techniques and technologies that justify and facilitate intrusion and surveillance into every sphere of life, have resulted in a society that is more mistrustful, insecure and unsafe.

Though the CT regime has predominantly targeted Muslims and/or foreign nationals, the impact it has had resonates far wider: it has contributed to the emergence of a two-tier justice system, the expansion of pre-crime policing, enshrined racism and discriminatory policies in law, and securitised policing more broadly.
Successive “reviews” and “reforms” of counter-terrorism legislation and policy ring hollow: it is the political substance and architecture of counter-terrorism that is permeating British society that is the problem.

As such, opposition to the CT regime must focus on abolition as a starting point, and developing new frameworks based on social security, rather than the politicised framework of ‘terrorism’ and ‘counter-terrorism’.
CAGE will be releasing a number of reports highlighting the history and impact of TACT and the resultant counter-terror regime, drawing upon our 17 years of experience against the impact of state securitisation and surveillance on people and the courts.

We hope these briefings set a course for strident campaigning and positive change that have as an end goal a healthy and safe society based on trust, not fear, with people at the centre, not policing.

FOOTNOTES

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'Terror-related' includes offences dealt with through dedicated CT legislation, as well as non-terrorism legislation where the offence is considered to be "terrorism-related", as defined in Home Office statistics.
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Central & Eastern Europe: Albania, Austria, Bulgaria, Chechnya, Cyprus, Czech Republic, Georgia, Greece, Hungary, Kosovo, Poland, Romania, Serbia, Slovakia, Ukraine
East Africa: Eritrea, Ethiopia, Kenya, Mauritius, Somalia, Sudan, Tanzania, Uganda
Middle East & North Africa: Algeria, Bahrain, Egypt, Iran, Iraq, Israel, Jordan, Kurdistan, Kuwait, Lebanon, Libya, Morocco, Palestine, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates, Yemen
Other: Australia, New Zealand, Other dual nationality, Not declared
South, West & Central Asia: Afghanistan, Bangladesh, India, Kazakhstan, Pakistan, Russia, Sri Lanka, Turkey, Uzbekistan
Southeast and East Asia: Burma, China, Indonesia, Japan, Nepal, Singapore, The Philippines, Vietnam
The Americas & Caribbean: Brazil, Canada, Colombia, Costa Rica, Jamaica, Trinidad and Tobago, United States, Uruguay, Venezuela
UK and Ireland: Great Britain, Ireland, British dual nationality
West, South and Central Africa: Burkina, Cameroon, Democratic Republic of Congo, Gambia, Ghana, Guinea, Ivory Coast, Liberia, Mali, Nigeria, Senegal, South Africa, Zimbabwe
Western & Northern Europe: Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland

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122

1. Scrap PREVENT
2. Abandon the frameworks underpinning PREVENT
3. Clean money: Restore social spending without strings
4. Secure an ethical foreign policy
5. Stop managing social issues through security measures
6. Reinstate a society where civil rights can be exercised
7. Decouple welfare and safeguarding from counter-terrorism
8. Repeal counter-terror laws instituted since 2000

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