

PAPER THREE

INTERNATIONAL TERRORISM: RECONCILING LIBERTY AND SECURITY – THE GOVERNMENT’S STRATEGY TO REDUCE THE THREAT

Paper one in this series outlined the nature of the terrorist threat we face and how it differs from previous threats of this kind. Paper two described the Government’s strategy for responding to the threat – the four “Ps”: prevent, pursue, protect, prepare.

This paper sets out the Government’s approach to reducing the threat by prevention and pursuit. It considers the balance the Government must strike between the preservation of essential liberties and the security of our citizens and outlines the principles which have guided the Government in striking this balance.

Prevention: preventing extremism and terrorist recruitment

Just because international terrorism appears to us to be perverse in its objectives and abhorrent in its methods, it does not mean that others see it this way. We need to understand better what so attracts some young people – albeit a tiny minority – to leave their homes, join the networks, kill indiscriminately and even take their own lives and others to give them moral, financial and practical support.

The Government does not believe that a credible strategy to reduce the threat from terrorism can neglect these underlying issues, though tackling them will necessarily be a long-term challenge.

The factors which contribute to the recruitment of terrorists include:

- structural factors present in many countries and societies; poor governance; unmet economic aspirations; demographic pressure; political and social alienation;
- motivational factors: local and international conflicts; the perception that the Muslim world and Muslim people have been deprived, oppressed and attacked by the “West”; and the belief that these perceived injustices will only be put right by the re-establishment and expansion of an Islamic caliphate;
- propaganda methodologies: the use of the internet for propaganda and recruitment; other recruitment and training networks; havens from which terrorist attacks can be mounted.

The Government is working to counter these factors by:

- working with Government and civil society to improve governance, manage change and reduce alienation. The Foreign and

Commonwealth Office has a programme of work designed for these purposes. And the work of the Department for International Development supports these broad objectives in many countries. The British Council “Connecting Futures” programme engages with the next generation of young people in the Middle East and in other countries in the developing and Islamic world to build links and mutual understanding between them and young people in the UK;

- trying to resolve conflict, most notably through our strong and persistent efforts to support the Middle East Peace Process;
- conveying clearly at home and overseas that there is no clash of civilisations, but rather a struggle between human civilisation as a whole and inhumanity. Violent extremists of all types should be marginalised, while those with genuine, peaceful aspirations should be welcomed into the political mainstream;
- ensuring that no British Muslims suffer discrimination, disadvantage or victimisation because of their religion and that the positive role and contribution of Islam is fully recognised in UK society. The Government is seeking Parliament’s approval in its Serious Organised Crime and Police Bill for a provision which would outlaw incitement to hatred on religious grounds. We also intend to introduce a Bill which will make it unlawful for public authorities and service providers to discriminate against anyone on the grounds of their religion or belief;
- better understanding the process of radicalisation and recruitment and tackling the focal points at which young men and women are tempted into violence.

The Government also recognises that the action we take to pursue the current generation of terrorists may affect the perceptions of young people exposed to the terrorists’ propaganda.

Pursuit: reconciling liberty and security for the current generation

The Government’s programme of action to prevent future generations being drawn into terrorism will help to reduce the threat to the UK and its citizens in the longer-term. We face however – as paper one of this series has shown – a present threat from the current generation of terrorists.

A key element of the Government’s strategy is therefore to pursue, disrupt and, wherever possible, prosecute and convict networks of terrorists intent on mounting attacks against the UK. We must do this without compromising the openness of our society or the freedoms we value.

Efficient law enforcement and intelligence services

Good intelligence and painstaking law enforcement are critical to this activity. Intelligence enables us to understand better the intentions and capabilities of terrorists and to disrupt their plans, preparations and finances. Law enforcement enables us to bring terrorists to justice within a framework of fair but effective laws.

Joint Terrorism Assessment Centre (JTAC) was created in June 2003 as the UK's centre of expertise on assessing the threat from international terrorism. It comprises staff from eleven government departments and agencies. JTAC sets threat levels and issues timely threat warning as well as more in-depth reports on trends, terrorist networks and capabilities.

That is why Government has made a high priority of strengthening the capacity of the Security Service and the police force.

Security Service and police resources

The Government has budgeted for a 50% increase in the size of the Security Service over the next three years. The bulk of the extra resources will go into counter-terrorism work

In 2005-06 dedicated counter-terrorism funding for the police service in England and Wales, including the Metropolitan Police Service, will amount to £96m revenue and £8m capital. This is very nearly double the amount of the first dedicated counter-terrorism grants in 2002-03. Much other police work and resources support the counter-terrorism strategy.

However, our intelligence and law enforcement agencies cannot succeed in uncovering and disrupting terrorist networks unless we also have laws which, while safeguarding individual rights, enable the police to investigate and the Crown Prosecution Service to prosecute terrorists who operate in highly sophisticated ways.

The law: liberty with security

For the reasons set out in paper one the Government is clear that we face a real threat from international terrorism, a point not disputed by the Law Lords in their judgement on 16 December 2004 relating to the derogation for the ATCS Act 2001 part 4 powers.

Democratic governments have long accepted that such emergencies may justify some temporary and limited curtailment of individual rights where this is essential to preserve wider freedoms and security. Lincoln suspended Habeas Corpus during the American Civil War. During World War II, British citizens were detained on British soil under the Defence (Central) Regulations 1939. More recently, the Council of Europe adopted in 2002 “*Guidelines on Human Rights and the Fight against Terrorism*” which clarified how security and human rights could be reconciled in combating terrorism.

Council of Europe’s *Guidelines on Human Rights and the Fight against Terrorism*

Key points of the Guidelines are:

- States are obliged to take measures needed to protect the fundamental rights of everyone within their jurisdiction against terrorist acts;
- States’ counter-terrorism measures must comply with their human rights obligations;
- however, in implementing counter-terrorism measures, States may restrict the enjoyment of a number of human rights on the grounds of national security. Such restrictions must be lawful, defined as precisely as possible and proportionate to the aim pursued;
- States may derogate from further human rights when terrorism constitutes a public emergency threatening the life of a nation;
- but some fundamental human rights – for example, the right to life and the prohibition of torture cannot be restricted or derogated from.

In line with these guidelines successive UK governments have sought and gained Parliament’s approval for special powers to combat Irish terrorism and the growing threat from international terrorism.

The UK’s counter-terrorism laws

The key provisions of the 2000 and 2001 Acts are summarised below:

Terrorism Act 2000

- Power to proscribe organisations involved in international or domestic terrorism.

- Enhanced powers to seize terrorist property and disrupt terrorist financial activity.
- Specific police powers and provisions related to terrorist investigations (eg stop and search, arrest, port and border controls).
- Incorporation of Northern Ireland (Emergency Powers) Acts provisions – renewable annually. Additional temporary Northern Ireland-only measures.
- Creation of several offences specific to terrorism (eg fund-raising, offences related to proscribed groups, directing terrorism and training offences).
- Requirement for annual report on the operation of the Act to be provided to Parliament. This is carried out by an independent reviewer, Lord Carlile of Berriew QC.

ATCS Act 2001

- Extended detention for suspected international terrorists who threaten national security and cannot be removed immediately.
- Creation of offences relating to hoaxes involving dangerous substances.
- Measures to cut terrorists off from their funds including account monitoring, asset freezing, cash seizure and information disclosure.
- Protection of civil nuclear sites, and creation of new offences involving aiding and abetting overseas use, development or training for biological, chemical or nuclear weapons.
- New powers to strengthen aviation security.

There is nothing intrinsically incompatible between these laws and our human rights obligations. As Lord Chief Justice Woolf said in a speech to the British Academy in October 2002:

“...the Human Rights Act is not a suicide pact! It does not require this country to tie its hands behind its back in the face of aggression, terrorism or violent crime.”

International terrorism does however confront us with a particularly acute dilemma because the sophistication of the terrorists’ methods sometimes means that, although law enforcement agencies may have strong grounds for suspecting involvement in terrorism, little of the evidence would be admissible

in a criminal court or would be impossible to reveal in Court without exposing sensitive capabilities or endangering sources of information.

This is true, for example, of intercept material which often involves the use of sensitive techniques. The usefulness of intercept evidence as an evidential resource, as opposed to an intelligence one – showing who is talking to whom, where they are located, and sometimes clues to what they are discussing - is moreover severely limited by the sophistication of the terrorists who rarely incriminate themselves over the telephone or fax.

In these respect the Courts in the different jurisdictions of the United Kingdom are fundamentally different from those of most of our EU partners because of the adversarial nature of our criminal justice system. A necessary counterpart of that system is a right for the defence to seek discovery of information relevant to the defence and to probe the provenance of evidence.

For these reasons the Home Secretary set out his proposals for Control Orders in his statement to Parliament on 26 January 2005.

However, the Government also believes that some clear principles should govern the balance between liberty and security.

- We seek to prosecute terrorists wherever possible. To that end, the Government is seeking new powers for our law enforcement agencies in the Serious Organised Crime and Police Bill to require the giving of evidence in some circumstances and to modernise Queen's Evidence to give people on the fringe of a terrorist conspiracy better incentives to give evidence against their accomplices. The Government also intends to bring forward proposals in the next session of Parliament aimed at facilitating such prosecutions within the ordinary criminal law.
- In all measures we take, we shall adhere to the European Convention on Human Rights. Where a derogation from the Convention is justified by the gravity of the threat posed by an individual terrorist or terrorists, that derogation will be strictly within the terms allowed by the Convention.
- Although it must be for the Home Secretary to initiate any controls which circumscribe the freedom of an individual because ensuring the security of the UK and its citizens is the most important of his responsibilities, controls which amount to a deprivation of liberty will be subject to judicial confirmation and all controls of any kind will be subject to judicial review.
- Counter-terrorism laws will continue to be subject to regular Parliamentary scrutiny and the operation of those laws to scrutiny by an independent reviewer. Parliament will also be asked to approve any derogation from the ECHR should the necessity for one arise.

In short, in the face of an unprecedented challenge, the Government, like many democratic governments before it, has found it necessary to take powers which enable it to abridge in strictly limited circumstances the freedom of the individual in the interest of wider security. But this is proportionate action, within the law, and with proper safeguards to ensure that the restriction of individual rights is no more than is strictly required by the circumstances of the threat.