

Xenofon Kavvadias

"The Law is no less conceptual than Fine Art"

Lord Carlile of Berriew QC

Exhibition Dates 5 May - 17 June 2011

Artist's Statement

Introduction

"The role of civil society in countering terrorism"

"Counter-terrorist policies can only be successful over the longer term with the active support of an informed public. Yet, many of the measures we observed tend to discourage such an approach. Instead, the panel heard of policies which appear to encourage an "us and them" approach and which alienate communities whose support is essential for successful counter-terrorism action. At times of crisis, unpopular or minority groups are easily singled out for harassment and repression, the Panel heard evidence of worrying trends in this regard. The Panel also heard of restrictions being placed on freedom of expression and association, with journalists and human rights defenders reporting a growing culture of fear. We need to strengthen not weaken civil society so as to more effectively counter terrorism. In the view of the Panel, what is needed to thwart this downward spiral is a plan of action, which engages with any real or perceived grievances that might give succor to terrorists, which strengthens accountability, and which integrates human rights and equality considerations into all government policies."

Extract from the "Report of the eminent jurists panel on terrorism, counter-terrorism and human rights" 2009

In my work I am particularly interested in sections 57 and section 58 of the Terrorism Act. In these sections it is stated that:

"a person commits an offence if 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".

I am also interested in the 2006 Act where it is stated that:

"a person commits an offence if he publishes a statement in which he glorifies terrorism or is likely to be understood by members of the public as direct or indirect encouragement or other inducement to the commission preparation or instigation of such act's or causes another to publish such a statement."

Since 2000, the Counter Terrorism legislation (TA) resulted in a large number of arrests, prosecutions and more than 120 convictions; many of them based on pieces of literature and other documents. The wide definition of terrorism¹ has created a huge number of potentially illegal documents. Nevertheless, public interest in the phenomenon is still high. This results in a huge number of people downloading pieces of literature and other documents that have the potential to put them at risk of prosecution.

On Wednesday, February 13th 2008, Lord Chief Justice Lord Phillips quashed the convictions of five young Muslim men and stated that:

"(section 57) must be interpreted in a way that requires a direct connection between the object possessed and the act of terrorism."

Regardless of Lord Phillips's decision, specifically extremist and, or revolutionary literature is still off limits for the general public and especially for young Muslims who may easily be accused of "preparing an act of terrorism" or "glorification and inducement of terrorism." It is sad and chilling to come to terms with the fact that the legislation in effect makes some literature and thought illegal.

Description of the Installation

The art installation will be exhibiting pieces of literature that may be deemed illegal under counter terrorism legislation. I will display as much literature and other relevant documents as possible, and also exhibit pieces that were presented by Police as evidence to Courts of Law during terror trials. In the installation I will explicitly state that the documents neither express my views nor have my endorsement. As a pacifist I reject violence in every form. The documents will be displayed in a gallery space, on a purpose made table with chairs suitable for reading in a minimal setting, in a very transparent and open way. In a calm setting the viewer will be able to encounter and read the books. The show will be designed to provide the visitor with time to read the documents. Discussions will be encouraged but it will be clear that heated arguments and loud confrontations will not be tolerated in the reading space. The books will be uniformly bound without titles as white hard-back copies. Every book will be accompanied by a text, explaining the reasons for the book's inclusion in the installation and by a brief accurate description of the book's content and context in which it was published. Volunteers and members of Human Right Groups will be invited to monitor the space. Photographs and note-taking will not be allowed. The documents should be read exclusively in the installation space. The removal of the documents from the installation space will not be allowed. For security reasons the documents will be counted before and after the every show. Securing them by steel cable is to be considered. The space will be locked at the end of each day.

Methodology regarding the collection of the material

For many years I followed respected mainstream media sources such as the BBC and the Guardian and thus created an extended archive of terror cases and trials. After studying the cases, I singled out the documents that had been presented to the court as evidence; I searched for them in the Internet using the Google search engine. I collected information regarding these documents mostly from Wikipedia and other open public sources. I downloaded those I considered relevant from open source web sites. I took care, however not to download anything from secret or password protected sources.

Lawfulness of installation

The main purpose of this Art installation is to examine what has been banned from the public sphere. During the installation I will make explicitly clear that I do not share the opinion of the writers neither endorse what is written in these books. Since such documents are readily and easily available on the Internet, it is extremely unlikely that an aspiring terrorist would risk visiting the installation for inspiration and information, given that such documents can be downloaded in the privacy of ones home PC or in an anonymous Internet cafe. Furthermore the gallery invigilation will ensure that the documents will not be removed or photographed. This eliminates the risk of somebody coming to the installation for inspiration or to obtain information. The Terrorism Act penalizes such books when they are used to promote and inspire terrorists activities. According to Lord Chief Justice Lord Phillips "a direct connection is required between the object possessed and the act of terrorism." I am absolutely convinced that the books are presented in such a way that would not encourage terrorist activities.

As UN special reporter on freedom of opinion and expression wrote on 21/12/2005:

"While it may be legitimate to ban incitement to terrorism or acts of terrorism states should not employ vague terms such as "glorifying " or "promoting" terrorism when restricting expression. Incitement should be understood as a direct call to engage in terrorism, with the intention that this should promote terrorism, and in a context in which the call is directly causally responsible for increasing the actual likelihood of a terrorist act occurring".

Intentions

Accurate and free information is absolutely fundamental within a democratic society. A responsible citizen is a well-informed citizen. In light of recent social and political unrest, a large part of society is understandably preoccupied with the phenomenon of terrorism. This interest has created the need for information. The most common way of getting hold of such information is by visiting sites on the Internet often under dubious circumstances with the fear of prosecution or harassment. Often such information is provided in the form of texts or books presented and commented on by individuals who have a specific agenda. These comments do not allow one to approach these texts without being pressured to think in a certain way or patronized. There are already a large number of books on the market containing most of these texts, but always as fragments and not in their entirety.

With my work I am interested in the limits of acceptability and the margins of legality, within the law, as an Art and Research project. I try to realize what can be seen, said or thought under contemporary legislation and situation. I am also interested in investigating the future of these books. Could they exist outside an Art project or do they have to be destroyed? The installation will attempt to deal with the wound that has been created by terrorist atrocities, and the wars of recent years. In a part of society there is a perception of double standards in the application of the law. Since it is impossible to change or deny unbalanced statistics we have the duty, everyone from his own position, to shed light on the facts and relieve members of society from perceived imbalance, injustice and feelings of persecution. During the show a space of freedom and equality will be created where the visitors will be able to encounter freely without any didactic attitude, or fear, part of what has been denied to them during the last decade due terrorism and war.

Furthermore, since these books have been presented as evidence in an open court they should also be available to the general public in order to study, understand and evaluate the need for their criminalization and ban. The actual encounter with the books will provide the public with a chance to examine and understand also the way and the circumstances under which the law is applied.

Broad spectrum of Books

As I mentioned earlier, there is an issue regarding the broad definition of terrorism in T.A. 2000. In my show I will include books that one may claim glorify terrorism in the strict meaning of the word. Deuteronomy, and TE Lawrence's "The evolution of the revolt" are examples of this. There is a huge number of documents from the past, like the story of national independence of many countries, American war of independence for example, that can be considered to glorify terrorism as it is defined today. David Miliband found himself having problems when he defended the practices of African National Congress (ANC) against the Apartheid regime.² Equally the story of the creation of Israel as told by Menahem Begin could be said to glorify terrorism against the British during the British mandate in Palestine. I cannot imagine that the spirit of the law is to criminalize the ownership or display of books like these, or that it should be regarded as a criminal offence to display Islamist documents if it is clear that they neither represent my views nor have my endorsement. I firmly believe that the law criminalizes these documents if they are used to induce and incite terrorist activities. It cannot be that we have reached a state that history written from any other side than the British is forbidden.

On the same subject the "Report of the eminent jurists panel on terrorism, counter- terrorism and human rights" writes:

"One of the most controversial examples of this trend was provided to the Panel at its UK Hearing. The UK legislation allows for the offence of "indirect encouragement by glorification" is *inter alia* committed, irrespective of the intent of the author, if some members of the public may "reasonably be expected to infer that what is being glorified is being glorified as conduct that should be emulated."

For example, the UK government purports simply to be implementing the Council of Europe Convention, but fails to integrate into UK law the requirement that there be an "intent to incite." Many participants at the UK Hearing raised concerns that the breadth, and the ambiguity, of the offence of "glorification" create a risk of arbitrary and discriminatory application. The risk of such abuse is exacerbated by the fact that the offence applies also to past acts of terrorism and to terrorist acts occurring in other countries. Witnesses expressed concern that such wide-ranging laws reduce legitimate political debate, particularly within immigrant or minority" communities.

Selected cases of books

There is a well-documented fear in a large part of the population of accessing these documents whereas another part of the population is not afraid to reach and obtain them. As an example I will refer to a personal experience. In 2008 I was researching the availability of the "Anarchist cookbook" (a widely published book on home-made explosives) in bookstores in central London. When I asked a young, white, presumably Christian employee about the book he replied that it was not available any more but I could easily download it from the Internet. He did not have the slightest reservation about the legality of an act like this. The opposite happened when I tried to explain my project to Muslim people in Leeds. Most of them said to me that this is extremely dangerous and that I should not attempt it under any circumstances. This fear results in lack of information regarding the texts and also in feelings of injustice, discrimination and persecution.

The Anarchist Cookbook was a popular reading during the 70s-80s. Thousands of copies have been sold in the UK during the past decades. Today it is a document that can lead to imprisonment. In early 2008 I had a meeting with Counter Terrorism Police Officers in Leeds who explained to me that I should not, under any circumstances, download and possess this document. This situation raises several questions: Are thousands of UK households who possess this book breaking the counterterrorism law? Should they subsequently not be informed about it? Shouldn't they be required to destroy the book? Is this a solution within the spirit of law? For if we ban a book, how far are we from forcing the owner to destroy it? For if we ask or force the owner of a book to destroy it how far are we from burning this book? I am convinced that in this country only a tiny minority is prepared to burn books or see books burned. The last book I can recall being burned was a copy of Salman Rushdie's *Satanic Verses* by in Bradford. During my research I came across the CIA Psychological Operations Manual that was distributed to the Contras in Nicaragua during the 80s. The case was presented by the Nicaraguan government to the ICJ and was blocked by the US. The CIA PSYOP is a manual that solicited murder, instructed and helped the organization of Contras' terrorist activities against the Sandinistas government during the Cold War. In many ways it is the equivalent to the manual of the Afghan Jihad (Al Qaida manual) today. It is hard for me to understand why we can't see, examine, study and display the CIA PSYOP manual. It is historical, political and its ideological value cannot be denied. Similarly I can't see how we can exempt the manual of the Afghan Jihad from the same scrutiny.

Conclusion

Extremist ideologies are deep-rooted systems of beliefs. This attracts the interest of large part of the public especially in periods of conflict. Today, with the rise of fundamentalism from every side, it is interesting and often necessary to visit texts that have shaped today's sociopolitical and cultural environment. Quite often these texts are presented as parts of books, which attempt to analyze the phenomenon of extremism from a particular point of view. Participants often present them in debates in order to illustrate their position. In my installation I will attempt, after having stated that these documents neither express my view nor have my endorsement, to present them without any other comment. I want to create a unique environment of calm, respect, unity, equality, thoughtfulness and reflection so that the viewer will hopefully position him/her self in front of them without fear, force, tension, urgency, pain, and feelings of injustice, death, and torture. The emotional state that is often associated with or which follows war, terrorism and contemporary politics, eliminates the possibility of an in depth inspection. I will try to create a unique space in the gallery where the viewer will be able to enter and distance him/her self from the contemporary condition, in order to understand, judge and reflect on the texts only in relation to their deep, honest and fundamental qualities and beliefs.

I believe that in the country where Magna Carta was signed and Milton delivered the "Aeropagitica" it is not impossible to differentiate between those who are against the values of 800 years of democratic tradition from those who cherish and believe in them. It is this strong belief that forces one to move outside of the comfort zone in order to defend these values and attempt to reclaim valuable ground that has been lost in a long standing war that the people of this country never really wanted to begin with.

Yours sincerely

Xenofon Kavvadias

Notes

¹ Crucial Interpretation of definition Much of the legal argument surrounding the passage of the Terrorism Act focuses on the definition of "terrorism." Section 1 of the Act elaborates the meaning of "terrorism" over five subsections. "Terrorism" can mean the threat of, as well as the use of, an action. Section 1(4) makes it clear that this "action" can occur anywhere within or outside the UK. Similarly, the persons, property or government affected by the threat or action itself can be anywhere in the world. The purpose of the action or threat is important for the definition of terrorism. The purpose must be to influence government "or to intimidate the public or a section of the public" for any "political, religious or ideological cause" (S1(1) b and c). The types of action are defined in Section 1(2) and include "serious violence against a person", "serious damage to property", endangering a person's life, creating a "serious risk to the health and safety of the public", and "seriously interfering or disrupting an electronic system." "Terrorism" is also defined by the weaponry involved, whether or not it is designed to be used to influence government or the public. Firearms and explosives deployed in any of the actions in S1(2) means that "terrorism" is involved. Statewatch vol 10 no5 (2000)

² Translating terrorism David Miliband is under attack for justifying terrorism, but the word's many conflicting definitions serve authorities well Parris: "Are there circumstances in which violent reaction – terrorism – is the right response?" Miliband: "That's such a hard question – "right" has to be judged in two ways doesn't it? Whether it's justifiable and whether it's effective. I think I'm right in saying that one of the ways in which the ANC tried to square the circle between being a movement of political change and a movement which used violence, was to target installations rather than people ... But I think the answer has to be yes – there are circumstances in which it is justifiable, and yes, there are circumstances in which it is effective – but it is never effective on its own".