



# De-radicalisation and Integration Legal and Policy Framework

United Kingdom/Country Report

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## List of Abbreviations

CPS - Crown Prosecution Service

CTS - Counter-Terrorism and Security

ECtHR - European Court of Human Rights

HRA - Human Rights Act

ISIS - Islamic State of Iraq and the Levant

PFA - Protection of Freedoms Act

PKK - The Kurdistan Workers' Party (Partiya Karkerên Kurdistan)

SDF - Syrian Democratic Forces

TPIM - Terrorism Prevention and Investigation Measures

YPG - People's Protection Units

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## About the Project

D.Rad is a comparative study of radicalisation and polarisation in Europe and beyond. It aims to identify the actors, networks, and wider social contexts driving radicalisation, particularly among young people in urban and peri-urban areas. D.Rad conceptualises this through the I-GAP spectrum (injustice, grievance, alienation, polarisation) with the goal of moving towards measurable evaluations of de-radicalisation programmes. Our intention is to identify the building blocks of radicalisation, which include a sense of being victimised; a sense of being thwarted or lacking agency in established legal and political structures; and coming under the influence of “us vs them” identity formulations.

D.Rad benefits from an exceptional breadth of backgrounds. The project spans national contexts including the UK, France, Italy, Germany, Poland, Hungary, Finland, Slovenia, Bosnia, Serbia, Kosovo, Israel, Iraq, Jordan, Turkey, Georgia, Austria, and several minority nationalisms. It bridges academic disciplines ranging from political science and cultural studies to social psychology and artificial intelligence. Dissemination methods include D.Rad labs, D.Rad hubs, policy papers, academic workshops, visual outputs and digital galleries. As such, D.Rad establishes a rigorous foundation to test practical interventions geared to prevention, inclusion and de-radicalisation.

With the possibility of capturing the trajectories of seventeen nations and several minority nations, the project will provide a unique evidence base for the comparative analysis of law and policy as nation states adapt to new security challenges. The process of mapping these varieties and their link to national contexts will be crucial in uncovering strengths and weaknesses in existing interventions. Furthermore, D.Rad accounts for the problem that processes of radicalisation often occur in circumstances that escape the control and scrutiny of traditional national frameworks of justice. The participation of AI professionals in modelling, analysing, and devising solutions to online radicalisation will be central to the project’s aims.

## Executive Summary

This D.Rad 4.1 report shows the ways in which the United Kingdom counter-terrorism laws define terrorism broadly to include all terrorism acts pursuing the advancement of either political, cultural, religious, or racial causes; however, the new laws introduced during the last decade perceive jihadist terrorism as a more serious threat than far-right terrorism. The counter-terrorism laws' over-emphasis on jihadist terrorism reflects the counter-terrorism operations of the law enforcement authorities. Therefore, this report shows the ways people belonging to ethnic and religious minorities are more likely to be suspected of terror-related activities. Despite serious institutional efforts to make the police use of stop and search objective and impartial, the report brings evidence to how the threshold of reasonable suspicion varies from case to case and constable to constable, due to the broad nature of the definition of reasonable suspicion. Counter-terrorism police subdivide far-right terrorism into white supremacy, neo-Nazism, and white cultural imperialism; on the contrary, jihadist terrorism is generally treated as Islamic radicalisation. This approach has wide stigmatisation and alienation effects. In this report, we recommend that a uniform process must be applied to different cases of terrorism. Where the evidence permits (the Thomas Mair case, for example) terrorism charges should be levied to every case of terrorism provided the case come under the definition of terrorism. This report recommends that jihadist terrorism must also be subdivided according to the political, cultural, religious, and racial ideologies of the offender. Such an approach is more likely to help in applying uniform process to all acts of terrorism and redress some of the lasting impacts of institutionalised Islamophobia within the UK legal context.

# 1. Introduction

The acts of violence attributable to BAME communities more widely and Muslims more specifically are generally directly linked to radicalisation through media and other social and political institutions in the UK. On the contrary, there is a historical reluctance to identify racist, anti-immigrant, homophobic, misogynistic or Islamophobic violence as radicalisation and political violence. The fixation on the geopolitics of Islamist radicalisation through programmes like Prevent has led security services and policy-making to neglect the ways in which extreme ideologies interact with social, political and economic conditions to form other subcultural groups that support the use of violence and thus shape violent dispositions, such as the far-right political violence and terrorism<sup>1</sup>. Indeed, Neil Basu (Britain's counter-terrorism chief) and the counter-terrorism police unit have stated that the fastest-growing terrorism threat to the UK is from the far-right.<sup>2</sup> Based on this background, the D.Rad 4.1 report examines the effectiveness of the preventive measures provided under the existing laws and policies in the UK, in order to prevent wider forms of radicalisation in society. The report points out that there is currently a discriminatory treatment of political violence and terrorism in the UK. It argues that the current law and policies aiming to prevent radicalisation in the UK, especially the Prevent programme, contribute to the alienation and indirectly radicalisation of vulnerable individuals by stigmatising specific groups (BAME communities and Muslims particularly) and by not classifying the acts of other radicalised groups especially the white supremacist, racist, and misogynist groups as terrorist acts. The report highlights the imminent need for a uniform enforcement of counter-terrorism laws in the UK to eliminate systematic bias against religious and ethnic minorities at the hands of the law enforcement authorities.

The report identifies how the United Kingdom's counter-radicalisation/ counter-terrorism regime consists of a series of statutory laws and strategic policies that complement each other to collectively achieve the desired objective of countering both internal and external threats of terrorism. These laws and policies endeavour the desired objectives through effective coordination between law enforcement authorities and public and private sector organisations. They involve public and private sector organisations from various industries to prevent individuals from being drawn to terrorism and/or commit terrorism at the grass route level. To this end, the Counter-Terrorism & Security (CTS) Act 2015 and CONTEST Strategy 2018 make it obligatory

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<sup>1</sup> See Ozduzen, O., Ferenczi, N., Holmes, I., Rosun, N., Liu, K. & Alsayednoor S., '[Stakeholders of \(De\)-Radicalisation in the UK](#)', (2021) D.Rad D3.1 UK Country Report, Accessed on the 21st of June 2021; Ferenczi, N., Ozduzen, O. Holmes, I. & Liu, K., 'Cultural Drivers of Radicalisation', (2021) D.Rad D5.1 UK Country Report.

<sup>2</sup> Vikram Dodd and Jamie Grierson, 'Fastest-growing UK terrorist threat is from far right, say police', The Guardian (19 September 2019) Available from: <https://www.theguardian.com/uk-news/2019/sep/19/fastest-growing-uk-terrorist-threat-is-from-far-right-say-police> (Accessed on 5 April 2021).



for the senior management of the public sector organisations to take adequate measures to monitor vulnerable individuals under their control, care or influence from being drawn to terrorism.

The CTS Act (2015) and the CONTEST Strategy (2018) predominantly emphasise religious terrorism. The CTS Act was introduced in response to the heightened security threat from British Muslims returning from Syria and Iraq and supposedly having links to militant groups, particularly the Islamic State of Iraq and the Levant (ISIS).<sup>3</sup> Thereafter, the CONTEST Strategy 2018 was adopted by the Home Office under schedule 6 of the CTS Act 2015 to provide guidance to the public sector organisations to prevent people from being drawn to radicalisation. Accordingly, the law enforcement institutions overwhelmingly emphasise religious, particularly jihadist-related terrorism. Existing studies and data show that individuals belonging to ethnic and religious minorities are three times more likely to be stopped and searched for terror-related suspicions in the UK.<sup>4</sup> While the definition of terrorism enshrined under section 1 of the Terrorism Act 2000 includes both religious and political violence,<sup>5</sup> law enforcement institutions' disregard of the terrorism-related to the far-right white supremacist groups shows the existence of double standards between religious (jihadist) related terrorism and far-right extremism and terrorism.

Given the broad scope of the counter-terrorism laws and considering the research objectives of the 'DRad: De-Radicalisation in Europe and Beyond: Detect, Resolve, Re-integrate' project, the report focuses on the chief penal and preventive provisions of the existing laws. After laying out the contemporary socio-economic, political and cultural context in the UK, this report relies on an analysis of existing counter-terrorism laws as well as their interplay with human rights laws through two key studies revolving around British foreign fighters as well as police stop and search powers in the UK. Methodologically, the report critically engages with existing laws, whilst making use of two expert interviews with Charles Clarke, who was the Home Secretary of Tony Blair government between 2004 and 2006 and Barrister Jonathan Hall – an Independent Reviewer of the UK Counter-Terrorism Legislation.

## 2. The socio-economic, political and cultural context

In the last three decades, the UK has witnessed different types of radicalisation, such as terrorist attacks by non-state actors, specifically separatist non-state actors (e.g. IRA), jihadist organisations (e.g. Al-Qaeda) as well as increasingly political violence

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<sup>3</sup> Home Office, [Explanatory Notes on CTSA 2015](#), accessed 16 June 2021.

<sup>4</sup> Shaka Yesufu, 'Discriminatory Use of Police Stop-and-Search Powers in London, UK' (2013) 15 International Journal of Police Science & Management 281; Francesco Ragazzi, 'Suspect Community or Suspect Category? The Impact of Counter-Terrorism as "Policed Multiculturalism"' (2016) 42 Journal of Ethnic and Migration Studies 724; Paul Thomas, 'The Perception of Counterradicalisation by Young People' in Lore Colaert (ed), *'De-radicalisation' Scientific insights for policy* (Flemish Peace Institute 2017).

<sup>5</sup> *Terrorism Act 2000*, Chapter 11, 20 July 2000, section 1.

perpetrated by organised far-right and extreme right-wing groups (e.g. British National Party). Since the 1970s, Thatcherite neoliberalism has shaped British politics, economy, culture, and everyday life. Since then, Margaret Thatcher and the wider Conservative Party forged a governing strategy across the fault lines of neoliberalism, traditional British Toryism, and little-Englander anti-Europeanism.<sup>6</sup> During the ensuing New Labour governments (1997-2010), a particular period in the history of the British Labour Party, neoliberalism has also been the norm, where the legacy of monetarism and privatisation of the Thatcher period heavily informed the welfare reform and labour market agendas of the New Labour governments.<sup>7</sup> The Conservative Party has been in power since 2010, following the New Labour governments. The last decade has been shaped by austerity programmes and rising anti-immigrant policy-making, evidenced by the recent policy proposed by Priti Patel in shipping asylum seekers offshore. The hostile immigration policy, mass privatisation and austerity programmes imply increasing unemployment and the decline of the welfare state (such as the loss of public housing). This largely feeds everyday forms of alienation, grievances and polarisation in the UK.

The centralised, hierarchical and elitist governments and a subsequent model of democracy characterised by a limited notion of representation has also informed the British state's foreign policy, such as its intervention in Iraq.<sup>8</sup> The UK joined forces with the US to invade Iraq in March 2003 when the New Labour government was in power, following the September 11 attack (9/11) in the US in 2001, by the Wahabi terrorist organisation Al-Qaeda. This moment implied a change in the subsequent British foreign policy in the Middle East. This incident has also transformed the perception of radicalisation as well as the targets and aims of deradicalisation programmes on a global scale, including the UK. The 7/7 London bombings perpetrated by Islamist terrorist groups on the 7th of July 2005 have radically changed the relationship between the British state and Muslims as well as Muslims and non-Muslims in British society. Islamophobia has underpinned state-led securitisation since especially the 7/7 London bombings,<sup>9</sup> which is arguably behind the institutionalisation of Islamophobia in the UK as well as marginalisation and alienation of Muslim youth in the UK.

As an example, David Cameron (previous prime minister and leader of the Conservative party between 2005-2016) defined Britain as a Christian country and stated his "desire to 'infuse politics' with 'Christian values'".<sup>10</sup> Additionally, in the

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<sup>6</sup> Jamie Peck, 'Explaining (with) Neoliberalism' (2013) 1 *Territory, Politics, Governance* 132, 139.

<sup>7</sup> Colin Hay, 'The normalizing role of rationalist assumptions in the institutional embedding of neoliberalism' (2004) 33 *Economy and society* 500.

<sup>8</sup> Steven Kettell, *Dirty Politics?: New Labour, British Democracy and the Invasion of Iraq* (Zed Books 2006).

<sup>9</sup> Yasmin Hussain and Paul Bagguley, 'Securitized Citizens: Islamophobia, Racism and the 7/7 London Bombings' (2012) 60 *The Sociological Review* 715.

<sup>10</sup> Rowena Mason, '[David Cameron: I Am Evangelical about Christian Faith](#)' *The Guardian* (17 April 2014), accessed 15 September 2021.

aftermath of the Black Lives Matter protests, which acknowledged Winston Churchill's (the UK prime minister between 1940-1945 and 1951-1955) racism through a message placed on his statue in London, the current Prime Minister and the leader of the Conservative party, Boris Johnson, made the following statements via Twitter: "But it is clear that the protests have been sadly hijacked by extremists' intent on violence. The attacks and indiscriminate acts of violence which we have witnessed over the last week are intolerable and they are abhorrent" (Twitter, June 12th 2020). This statement was supportive of protecting idealised and nostalgic "British values", which are shared within different types of right-wing groups and across different regions in the UK from urban to rural areas. These statements by recent previous prime ministers also account for the discursive ways mainstream institutions in the UK engage in the "othering" of its minorities.

Since the 9/11 and 7/7 attacks, the most important deradicalisation programme in the UK has been the Prevent programme. Prevent is a part of the UK's counter-terrorism strategy CONTEST, and a part of the Prevent programme is called Channel.<sup>11</sup> The 'Prevent' attempts to protect against 'would-be terrorists' with assumptions on the sociological, psychological or behavioural characteristics of the 'radicalised'.<sup>12</sup> The Prevent programme legitimizes the everyday surveillance of specific communities and individuals, especially Muslims, and intervenes in their lives "before they radicalise", rather than aiming at forming integration programmes. The Prevent programme, which reflects an ongoing perception of securitisation targeting Muslims since the 9/11 attacks, is consistent with an increase in the anti-immigration policies and a change in the political discourses othering, scapegoating and dehumanizing these specific communities in the last two decades. Having direct implications in policymaking, media framing and education, British Muslim youth has been imagined as threatening, different, untrustworthy, and even dangerous especially since 7/7.<sup>13</sup>

### 3. The Constitutional Organisation of the State and its Constitutional Principles on D.Rad Field of Analysis (Secularism, Religious Freedom, Self-Determination and Sub-National Identities)

Unlike most states, the UK constitution is not codified in a single document. This means that there is no single document which stipulates, in one place, the fundamental laws outlining how state powers are organised, distributed, and exercised by the state institutions. This is why the UK constitution is often described as unwritten or

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<sup>11</sup> Rita Augestad Knudsen, 'Between Vulnerability and Risk? Mental Health in UK Counter-Terrorism' (2021) 13 Behavioral Sciences of Terrorism and Political Aggression 43.

<sup>12</sup> Tahir Abbas, 'Implementing "Prevent" in Countering Violent Extremism in the UK: A Left-Realist Critique' (2019) 39 Critical Social Policy 396.

<sup>13</sup> Orla Lynch, 'British Muslim Youth: Radicalisation, Terrorism and the Construction of the "Other"' (2013) 6 Critical Studies on Terrorism 241.

uncodified. The UK constitution is a combination of various statutes, international conventions and treaties, and judicial decisions (common law). The Parliament, the Judiciary, the Executive, and regional governments are the main institutions of the government. State powers are exercised by the institutions in the name of the Crown - which is the Head of the state and generally follows the advice of the Ministers. The Parliament has the supreme authority to enact laws and incorporate international conventions and treaties into domestic laws. The judiciary interprets the laws and develops law through case judgements which is termed as common law and holds legal authority for the lower courts. The Supreme Court is the highest court in the UK which hears appeals against the judgments of the Court of Appeal in England, Wales, and Northern Ireland (NI) or Court of Session in Scotland.

The judiciary has recognised numerous principles as part of the constitution, which are recognised as constitutional principles. These include, parliamentary sovereignty, rule of law, democracy, respect of international law, freedom of religious beliefs, and prohibition of discrimination. The State, government, and state authorities executing the government's authority are bound by these principles. For example, in *R v Prime Minister*, the Supreme Court held that the laws enacted by the Crown in Parliament are the supreme form of law, with which everyone, including the government, must comply.<sup>14</sup> Thereby, the judiciary has always prevented the government from using prerogatives to indirectly circumvent the statutory laws enacted by the Parliament.<sup>15</sup> Similarly, in *R v Lord Chancellor*, the Supreme Court lauded the constitutional principle of the rule of law by stipulating that everyone is accountable to laws enacted by the Crown in the Parliament, including the Members of Parliament.<sup>16</sup> Before that, the principle of the rule of law originated from a historic 18th century, *Entick v Carrington* case, which related to the Secretary of State power to issue search warrants.<sup>17</sup> The High Court of England and Wales held that issuance of search warrant by the Secretary of State with statutory authority, and subsequently search of property and seizure of documents from the property belonging to the complainant was unlawful.<sup>18</sup> These judgements established important constitutional principles of parliamentary sovereignty and rule of law.

In the same way, the judiciary has recognised the principle of democracy in the famous case of *Ashby v White*.<sup>19</sup> The court stipulated that people's right to vote to elect the Members of the Parliament, for the purpose of making laws on their behalf, is the most transcending right of supreme nature that cannot be taken away, by anyone, by any

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<sup>14</sup> *R (Miller) v Prime Minister* [2019] UKSC 41.

<sup>15</sup> see *Attorney General v De Keyser's Royal Hotel Ltd* [1920] AC 508.

<sup>16</sup> *R v Lord Chancellor* [2017] UKSC 51, para 68.

<sup>17</sup> *Entick v Carrington* [1765] EWHC KB J98.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ashby v White* [1703] 92 ER 126.

means.<sup>20</sup> Furthermore, the judiciary has recognised international law, to which the UK is a party state, constitutional principle under the common law.<sup>21</sup> In *R v Lyons*, Lord Hoffmann stipulated that both statutory law and common law must be interpreted in such a way to avoid breach of the UK international obligations arising from international law.<sup>22</sup> Consequently, the principles of human rights protection originating from international treaty law, such as, equality, prohibition of torture, non-discrimination on the basis of race, religion, sex orientation, or nationality, freedom of religious beliefs, and state's non-interference in matters of religion (secularism) have also become the integral part of the UK constitution.

Nonetheless, the legislative and the executive powers related to matters of local governance, policing, and the justice system are devolved to Scottish and NI Parliaments. As a result, power to enact laws related to local governance such as policing and justice systems fall in the domain of the local legislatures; whereas power to enact laws concerning matters of national security, border security, immigration and asylum, and foreign relations fall under the domain of national government. Consequently, some degree of variation exists viz-a-viz police operations and prosecution in Scotland and NI; nevertheless, counter-terrorism laws, being a matter of national security, are generally same across the UK. Therefore, *Counter-Terrorism Act 2000* and its ancillary anti-terrorism laws are the cornerstone of the Scottish and NI counter-terrorism legislation as well.

## 4. Relevant Legislative Framework in the Field of Radicalisation

The UK's anti-radicalisation (counter-terrorism) legal regime originally consists of the Terrorism Act 2000. This act was intended to be comprehensive. However, the judgment of the European Court of Human Rights (ECtHR) in *Gillan and Quinton v. The United Kingdom*<sup>23</sup> and the judgement of the House of Lords in *A & others v Secretary of State for the Home Department*<sup>24</sup> and subsequent changes in the nature and form of security threats forced the UK governments – over the years – to amend the Terrorism Act 2000 through promulgation of new statutes.

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<sup>20</sup> Ibid.

<sup>21</sup> *Somerset v Stewart* [1772] 98 ER 499; *R v Lyons* [2002] UKHL 44.

<sup>22</sup> *R v Lyons*, (n 21) para 27.

<sup>23</sup> In *Gillan and Quinton v. The United Kingdom*, (Application no. 4158/05), the ECtHR declared section 44 of the Terrorism Act empowering police to stop and search without reasonable suspicion, incompatible with the ECHR.

<sup>24</sup> In *A and others v Secretary of State for the Home Department* (2004, UKHL 56), the House of Lords held that the Home Secretary alternative approach to detain suspected terrorists indefinitely violates Article 5 of the ECHR.



Henceforth, Terrorism Act 2000 was amended through the promulgation of Anti-Terrorism, Crime and Security Act 2001, Terrorism Act 2006, Counter-Terrorism Act 2008, Terrorist Asset Freezing Act 2010, Terrorism Prevention and Investigations Measures Act 2011, Counter-Terrorism and Security Act 2015, and Counter-Terrorism and Border Security Act 2019. Furthermore, to ensure compliance of the ECHR, Human Rights Act (HRA) 1998 and Protection of Freedoms Act (PFA) 2012 were also incorporated in the UK counter-terrorism regime. All these laws collectively make the UK's current counter-terrorism or anti-radicalisation legal regime. In addition to these laws, the UK's counter-terrorism regime is also influenced by the European Convention on Human Rights (ECHR) 1950, the Human Rights Act (HRA) 1998, and the Protection of Freedoms Act (PFA) 2012.

These laws enshrine detailed provisions regarding the criminalisation of different forms of terrorism, organisations directly or indirectly involved in the commission or support of terrorism, publication or dissemination of material promoting or supporting terrorism; authorities' powers to forfeiture terrorists' properties and deport them if having immigration status; police powers to cordon off suspected properties and stop and search suspected individuals and their vehicles; the involvement of the wider community and governmental and non-governmental institutions to prevent radicalisation.

## Terrorism Act 2000

The Terrorism Act 2000 is the central instrument of the UK counter-terrorism legislation. It came into force on the 19<sup>th</sup> of February in 2001. Section 1 of the Act broadly defines terrorism by including offences prescribed under the Act and the subsequent anti-terrorism laws in the remit of terrorism. It defines terrorism as one's advancement of a radical, political, religious, racial, or ideological cause through the use or threat of action that endangers a person's life, causes serious property damage, creates a serious risk to public health or safety, or seriously interferes with or disrupts an electronic system.<sup>25</sup>

The Act enshrines provisions to proscribe organisations involved in terrorism, criminalise fundraising and cease funds raised to support terrorism; empowers police with broad cordon off and stop and search whilst apprehending powers to counter-terrorism and radicalisation. Section 43 of the Act empowered a police constable<sup>26</sup> to stop and search a person or the vehicle and other content in his possession when

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<sup>25</sup> *The Terrorism Act 2000*, (n 5).

<sup>26</sup> A police constable is empowered to stop and search a suspected individual under section 1 of the Police and Criminal Evidence Act 1984, section 60 of the Criminal Justice and Public Order Act 1994, and section 43 of the Terrorism Act 2000 when there are reasonable grounds suspicion. Furthermore, when there is an immediate threat of terrorism, an assistant chief constable may authorise a constable, under section 47A of the Terrorism Act 2000, to stop and search individuals without reasonable suspicion. These provisions further authorise the police constable to arrest a suspected individual when stop and search result in recovery of an offence weapon or evidence relating to terrorism.

there are reasonable grounds to suspect that the person is a terrorist or the vehicle is being used for terrorism-related activity.<sup>27</sup> Moreover, section 47A, replacing section 44 of the Act, empowers assistant chief constable<sup>28</sup> to authorise suspicion-less stop and search powers in a designated area when they reasonably suspect that an act of terrorism is likely to take place and that authorisation of such power is necessary to prevent such activity.<sup>29</sup>

Police powers to stop and search suspected individuals without reasonable suspicion (section 44) and powers to detain suspected individuals during stop and search (section 45) became a centre of controversy for disregarding human rights, such as, the right to liberty (Article 5, ECHR), right to privacy (Article 8, ECHR), the freedom of expression (Article 10, ECHR), the freedom of assembly (Article 11, ECHR), and the prohibition of discrimination (Article 14, ECHR). England and Wales police stop and search statistics showed that from April 2008 to March 2009, 256,026 people were stopped and searched without reasonable suspicion under section 44; nonetheless, 1452 cases resulted in arrests and most of them related to crimes other than terrorism.<sup>30</sup> This highlighted concerns about racial profiling and other prejudices in police practices. Lord Carlile QC raised this problem in his report on the operations of Terrorism Act (2008), in the following words;

*“I have evidence of cases where people were stopped and searched to produce a racial balance in the section 44 statistics, despite the fact that there was not the slightest possibility of them being terrorists”.*<sup>31</sup>

Section 44 also implicated the media reporters, photographers, and academic researchers taking photographs or recording videos near prominent national buildings and landmarks. Under section 44, a police constable could perceive any such individual on a reconnaissance mission ahead of their prospective terrorist act. Therefore, police harassment of media reports and researchers significantly increased following the enforcement of TA 2000. In a similar case, on 09 September 2003, a journalist - Ms Pennie Quinton - was stopped and searched by police on her way to film protests held against a defence equipment exhibition.<sup>32</sup> According to Ms Quinton, police stopped and searched her under section 44 and kept her detained for nearly

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<sup>27</sup> Terrorism Act 2000, (n 5) 43.

<sup>28</sup> An Assistant Chief Constable is responsible for reviewing the performances of field staff and setting up operational standards within their designated area of responsibility to ensure effective, efficient, and professional policing.

<sup>29</sup> Terrorism Act 2000, (n 5) 47A.

<sup>30</sup> Max Rowlands, '[UK: The Misuse of Section 44 Stop and Search Powers Continues despite European Court Ruling](#)' (*Statewatch Analysis*), accessed 30 August 2021.

<sup>31</sup> Lord Carlile QC, '[Report on the operation of the Terrorism Act 2000 and of Part 1 of the Terrorism Act 2006](#)', (June 2009), 29.

<sup>32</sup> *Gillan and Quinton v. The United Kingdom*, Application no. 4158/05, (ECtHR, 12 January 2010), para 9.

half an hour despite showing her press card.<sup>33</sup> MS Quinton challenged the legality of her stop and search in the UK courts without success; thereafter, she filed a complaint to the ECtHR.<sup>34</sup> The ECtHR held that the applicant's stop and search by police violated Article 8 of the ECHR.<sup>35</sup> Thereafter, the Court declared section 44 and 45 of the Terrorism Act incompatible with the ECHR.

The Act endeavours to counter radicalisation through the wider community involvement by obliging individuals who possess information that may help prevent an act of terrorism or may assist in securing the apprehension, prosecution, or conviction of a person involved in the commission, preparation, or instigation of an act of terrorism to disclose that information to the authorities.<sup>36</sup> Under section 54 of the Act, it is prohibited to provide, receive, or invite someone to receive training of firearms or explosives for terrorism purposes.<sup>37</sup> Furthermore, the Act creates numerous offences which provide procedures to: proscribe organisations involved in terror-related activities; prohibit fundraising, possession of an article likely to be used in to promote and cause terrorism, glorification of terrorism; and seize terrorist properties and their passions that are likely to support, promote, or cause terrorism.

### Anti-Terrorism Crime and Security Act 2001

After the terror events of 9/11 in the US, the UK government amended the Terrorism Act 2000 through the promulgation of the Anti-terrorism Crime and Security (ATCS) Act 2001. The ATCS extended the state authorities' existing powers to forfeiture the terrorist properties, issue orders to this effect, and deport immigrants and asylum seekers suspected of having links to terrorism. When their deportation could not be affected in light of the European Court of Human Rights Judgement in *Chahal v UK*,<sup>38</sup> The ATCS Act empowers the Secretary of State to classify them as "suspected international terrorists". The ATCS Act empowered the authorities to immediately apprehend a suspected international terrorist and detain them without a charge or a trial, on the basis of secret evidence, for an unspecified time.<sup>39</sup> The ATCS Act also provided additional provisions regarding weapons of mass destruction (Part VI), regulation of pathogens and toxins (Part VII), and the use of lethal substances to harm

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<sup>33</sup> *ibid.*

<sup>34</sup> *ibid.*, para 10-24.

<sup>35</sup> *ibid.*, para 87.

<sup>36</sup> Terrorism Act 2000, (n 5), section 38B.

<sup>37</sup> *Ibid.*, section 54.

<sup>38</sup> In *Chahal v The United Kingdom* (Application No. 70/1995), the ECtHR held that the Home Secretary decision to expel, Mr Chahal on security grounds, violated prohibition of inhuman and degrading treatment - enshrined under Article 3 of the European Convention on Human Rights (ECHR). The Court argued that a signatory state cannot return a foreign national on security grounds when there are foreseeable chances of inhuman and degrading treatment in the receiving state.

<sup>39</sup> *Anti-Terrorism Crime and security Act 2001*, 14 December 2001, section 23 (1).



or threaten to harm.<sup>40</sup> Furthermore, the ATCS Act provided procedures with regard to the aviation industry, such as arrest and removal from aircraft and airports, detention of aircraft and aviation security services.<sup>41</sup>

The Act created complex human rights implications. According to Amnesty International, the Act was draconian as it had far-reaching impacts on the right to liberty and protection from arbitrary detention.<sup>42</sup> Thereto, soon the Act was challenged in the UK courts. Consequently, in *A & others v Secretary of State for the Home Department*, the House of Lords held that indefinite detention of a suspected terrorist without a trial violates the right to liberty and protection from arbitrary detention. The House of Lords assessed the proportionality of indefinite detention of the suspected terrorist in the face of the availability of less restrictive measures; accordingly, it held that detention of the complaints violated their right to liberty and protection from arbitrary detention.<sup>43</sup>

Therefore, a need for further amendment of the counter-terrorism legislation aroused. As a result, the UK government introduced *Prevention of Terrorism Act (PTA) 2005* that allowed the Secretary of the State to impose control orders on the suspected terrorists. The control orders allowed the Secretary of State to impose a variety of restrictions on suspects such as restriction on employment, residence, travel, free movement, communication and association with others. The PTA 2005 was repealed on 15 December 2011, following the High Court judge - Justice Jeremy M Sullivan's declaration that the Secretary of State cannot impose 18 hours curfews on suspected individuals without derogating from the Article 5 ECHR.<sup>44</sup> Therefore, the court declared section 3 of the PTA 2005 incompatible with the right to fair trial.<sup>45</sup>

## Terrorism Act 2006

Until 2006, the existing counter-terrorism legislation mainly intended to criminalise terrorism acts and support investigation of terrorist crime. Nonetheless, due to massive development in the internet technology and online criminal activity, such as encouragement of terrorism, dissemination of terrorist publications, and preparation of terrorist acts in the online world, remained outside of the scope of existing laws. Therefore, The Terrorism Act 2006 introduced highly offences related to incitement of terrorism and disseminating terrorist publication in the online world. The July 7 2005

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<sup>40</sup> Ibid, sections 113-115.

<sup>41</sup> Ibid, sections 82-88.

<sup>42</sup> Amnesty International, '[United Kingdom: Amnesty International's Memorandum to the UK Government on Part 4 of the Anti-Terrorism, Crime and Security Act 2001](#)' (Amnesty International 2002) EUR 45/017/2002, accessed 15 July 2021.

<sup>43</sup> *A and others v Secretary of State for the Home Department* (2004), UKHL 56.

<sup>44</sup> *Secretary of State v MB* [2006] EWHC 1000 (Admin), para 104.

<sup>45</sup> *ibid*.

London bombings was the underlying cause of the Terrorism Act 2006. The Act arguably meant loss or lessening of trust between Muslims and the government<sup>46</sup>.

Section 1 of the Act criminalises a statement in oral or written form that has the capacity of being perceived by some or all of the members of the public as a direct or indirect encouragement or incitement to the commission, preparation, or instigation of terrorism.<sup>47</sup> Additionally, the Act criminalises the distribution, circulation, facilitation, holding, lending, and sale of a publication having the capacity of glorifying terrorism or inciting others to terrorism-related activities.<sup>48</sup> Section 5 criminalises the preparation of terrorist acts by making it an offence for a person having the intention to commit an act of terrorism or assist others to commit such an act, to undertake any conduct or action giving effect to that intention.<sup>49</sup> Furthermore, sections 6-8 of the Act supplement existing offence of terrorist training, whereas sections 9-11 supplement the existing provision of Terrorism Act 2000 regarding the preparation, use, or possession of radioactive materials or making threats relating to them.<sup>50</sup>

## Counter-Terrorism Act 2008

The existing counter-terrorism laws, so far, refrained from defining police powers with respect to gathering personal information from the suspect, seizing documents from the crime scene, and post charge questioning of the terrorist suspects. Therefore, there was a need for further amendment of the counter-terrorism legislation. Accordingly, the Counter-Terrorism Act 2008 was introduced in early 2008. The Act received Royal Assent on 26th November 2008.

The Act did not introduce new counter-terrorism provisions; rather, it extended the reach of the existing provisions. It provided the law enforcement authorities more powers to gather and share information for counter-terrorism purposes by removing the prohibition of post-charge questioning of suspected terrorists;<sup>51</sup> extending the pre-charge detention of suspected terrorists from 28 to 42 days;<sup>52</sup> imposing notification requirements on persons convicted of terror-related offences;<sup>53</sup> aligning the asset freezing laws with the international law;<sup>54</sup> amending provisions related to the

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<sup>46</sup> E Parker, 'Implementation of the UK Terrorism Act 2006-the relationship between counterterrorism law, free speech, and the Muslim community in the United Kingdom versus the United States' (2007) 21 *Emory Int'l L. Rev.*, 711.

<sup>47</sup> *Terrorism Act* 2006, 30 March 2006, section 1.

<sup>48</sup> *Ibid*, section 2.

<sup>49</sup> *Ibid*, section 5.

<sup>50</sup> *Ibid*, sections 8-11.

<sup>51</sup> *Counter-Terrorism Act* 2008, 26 November 2008, sections 22-24.

<sup>52</sup> *Ibid*, section 82.

<sup>53</sup> *Ibid*, section 45.

<sup>54</sup> *Ibid*, sections 34-41.

enforcement of control orders and forfeiture of suspected terrorist's cash;<sup>55</sup> extending police powers to remove documents from the properties searched during an investigation without regard to the legality of their seizure.<sup>56</sup>

Furthermore, the Act attempted to incorporate the recommendations suggested by Lord Carlile - the independent reviewer of the terrorism legislation - in his 2007 report on 'the Definition of Terrorism'. Lord Carlile suggested to make the terrorism definition compatible with the *UN Resolution 1566 (2004)* on threats to international peace and security caused by terrorist acts and the *Council of Europe Convention on the Prevention of Terrorism (2003)* by replacing section 1(1)(c) of the Terrorism Act 2000, with the following text:

"the use or threat is made for the purpose of advancing a political, philosophical, ideological, racial, ethnic, religious or other similar cause".<sup>57</sup>

Thereby, the Counter-Terrorism Act 2008, for the first time, introduced a 'racial cause' in the list of motives/causes behind the use or threat of action.<sup>58</sup> The Act attempted to further define terrorism causes to address the concerns of the critics of Terrorism definition who argued that the definition was too wide to leave room for political bias and potential use by the government to suppress legitimate social and political movements.<sup>59</sup> Additionally, under section 76, the Act made it a criminal offence to elicit or attempt to elicit, publish, or communicate information about a member of the armed forces, the intelligence services or a police constable which is likely to be useful to a person committing or preparing an act of terrorism.<sup>60</sup>

The section created complex implications for journalists and photographers. The National Union of Journalists (NUJ) feared that the Act would further extend police powers to stop and search journalist under section 44 (discussed above); therefore, it objected section 76 of the *Counter-Terrorism Act 2008* to protect the freedom of press, particularly the freedom of expression (Article 10 ECHR).<sup>61</sup> The British Press Photographers Association (BPPA) also raised similar concerns about arrest of photographers if the photographs taken by them had the potential of provoking

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<sup>55</sup> Ibid, sections 78-81 & 83-84.

<sup>56</sup> Ibid, section 9.

<sup>57</sup> Lord Carlile, '[The Definition of Terrorism](#)', March 2007, para 66.

<sup>58</sup> *Counter-Terrorism Act 2008*, (n 51) section 75.

<sup>59</sup> Andrew Blick, Tufyal Choudhury, Stuart Weir, '[The Rules of the Games](#)', (2006) Human Rights Centre: University of Essex; Amnesty International, '[Submission from Amnesty International, Europe and Central Asia Programme, to the JCHR's Inquiry into Counter-Terrorism Policy and Human Rights](#)' (2005) accessed 31 August 2021.

<sup>60</sup> Ibid, section 76.

<sup>61</sup> Jo Adetunji, '[Photographers Fear They Are Target of New Terror Law](#)' [2009] *the Guardian*, accessed 1 September 2021.

disorder.<sup>62</sup> The Home Office rendered these concerns speculative; it argued that it would be the job of police officers and courts to interpret and apply the law.<sup>63</sup> Nonetheless, the Home Office refrained from adequately addressing the NUJ and BPPA concerns with regard to journalists and photographers' right to liberty, freedom of expression and freedom of information.

## Terrorist Asset Freezing Act 2010

On 4 January 2010, in *HM Treasury v Ahmed & Others*,<sup>64</sup> the Supreme Court decided that the then enforced, *Terrorism Act 2006* was ultra vires to the *United Nations Act 1946*<sup>65</sup> - the Act which gave effect to United Nations Anti-Terrorism resolutions in the United Kingdom. Thereby, the Supreme Court quashed the *Terrorism Act 2006*. Consequently, there was a need to re-incorporate the United Nations Anti-Terrorism resolutions in the domestic laws, particularly the resolution no. 1373 which obliged the Member States to prevent financing of terrorist acts by freezing financial assets of the individuals involved in the commission or support of terror-related activities,<sup>66</sup> and resolution no. 1452 which introduced exemptions to prohibitions on making funds, financial assets or economic resources available to allow necessary payments to meet basic humanitarian needs, such as payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, public utility charges and legal fees and expenses.<sup>67</sup> Therefore, the *Terrorist Asset-Freezing Act (TAFA) 2010* was introduced in 2010.

The Act empowered Her Majesty's Treasury (the Treasury) to freeze the assets of a suspected individual by including their name in the interim or final list of individuals to whom asset freezing apply.<sup>68</sup> The Act makes it illegal for a person: to deal with funds or economic resources owned, held, or controlled by an individual designated in the interim or the final list; to make funds, financial services, or economic resources available to a designated person; to make funds, financial services, or economic resources available to any other person for the benefit of a designated person if the person has reasonable cause to suspect, that the funds, financial services, or economic resources in question are owned, held, or controlled by a designated person or benefit a designated person.<sup>69</sup> Furthermore, the Act makes it an offence for a person to intentionally participate in activities knowing that their object or effect is to

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<sup>62</sup> *ibid.*

<sup>63</sup> *Ibid.*

<sup>64</sup> *HM Treasury v Ahmed & Others (2010) UKSC 2.*

<sup>65</sup> *United Nations Act (1946)*, Chapter 45 9 & 10 Geo 6, 15 April 1946.

<sup>66</sup> United Nations Security Council, [Resolution no 1373](#), adopted by the Security Council on 28 September 2001.

<sup>67</sup> United Nations Security Council, [Resolution no 1452](#), adopted by the Security Council on 20 December 2002.

<sup>68</sup> *Terrorist Asset Freezing Act 2010*, 16 December 2010, Section 1-10.

<sup>69</sup> *Ibid.*, sections 10-15.

circumvent, enable, or facilitate the contravention of the prohibitions enshrined under sections 11 to 15 of the Act.<sup>70</sup> The Act penalises the breach of sections 11-15 & 18 with a maximum imprisonment term of seven years or a fine up to £5000 or both.<sup>71</sup>

## Terrorism Prevention and Investigation Measures Act 2011

Until 2010, the existing counter-terrorism law mainly focused on criminalising different acts of terrorism and enhancing police powers to prevent them. Nonetheless, significant gaps existed with respect to suspects under investigation for involvement in terror related activities, who cannot be prosecuted for lack of evidence or expelled to home state in light of the ECtHR judgment against the United Kingdom in the *Chahal* case, or suspects or convicts who have been released from prison and continuously pose threat to public safety or national security. Therefore, Terrorism Prevention and Investigation Measures Act (TPIMA) was introduced in the UK counter-terrorism legislation. The TPIMA received Royal Assent on 14th December 2011.

The TPIMA abolished the *Prevention of Terrorism Act 2005*. Thereby, Secretary of State's powers to impose 'control orders' was replaced with 'terrorism prevention and investigation measures' powers. Under schedule 1, the Act enshrines a set of requirements, restrictions, or obligations which may be imposed on an individual reasonably suspected of being a threat to the public.<sup>72</sup> The Act allows the Secretary of State to impose terrorism prevention measures either with the court's permission or on his own will when there are reasonable grounds to believe that the case's urgency requires so.<sup>73</sup> TPIM notice can be imposed for an initial duration of one year and extended by the Secretary of State for another year.<sup>74</sup> The Act makes it an offence for the suspected individuals against whom TPIM notice is imposed to contravene the measures specified in the TPIM notice without a reasonable excuse.<sup>75</sup> The person guilty of committing the offence is punishable with imprisonment, or a fine, or both.

The Act empowers the Secretary of State to impose on suspected individuals any of the restrictions or obligations enshrined under sections 1-9 of schedule 1, individually or collectively.

- An obligation to reside at a specific residence that could be either the individual's own residence or other premises designated by the Secretary of State.

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<sup>70</sup> Ibid, section 18.

<sup>71</sup> Ibid, section 32.

<sup>72</sup> *Terrorism Prevention and investigation Measures Act 2011*, 14 December 2011, schedule 1.

<sup>73</sup> Ibid, section 3(5).

<sup>74</sup> Ibid, section 5(2).

<sup>75</sup> Ibid, section 23.

- A restriction on obtaining travel documents, or leaving the UK, or traveling/visiting areas, without prior permission, barred by the Secretary of State.
- A restriction on entering a specific area or a place or a place or area of specific description.
- An obligation to comply with the movement orders of a police constable.
- A restriction on using or accessing – without prior permission of the Secretary of State – financial services; these measures may prohibit a suspected individual from opening a bank account, holding cash over a specified amount, or receiving interest or commission in relation to services or investments.
- A restriction on transferring property to or by the suspected individual or an obligation to disclose property and other assets.
- A restriction on possessing or using an electronic communication device either by the suspected individual or other persons residing with the suspected individual.
- A restriction on associating or communicating – without prior permission – with a specified person(s) or person(s) of a specified description.
- A restriction on working or studying – without prior permission – specified work or work of specified description or specified studies or studies of a specified description.

## Counter-Terrorism and Security Act 2015

On 29 August 2014, witnessing return of UK nationals Jihadist fighter who travelled to Syria to join terrorist Jihadist groups, the Independent Joint Terrorism Analysis Centre (JTAC) raised national security threat level to severe.<sup>76</sup> Therefore, there was a need for the government to introduce a new law to stop people travelling overseas to fight for terrorist organisations or engage in terrorism related activity and subsequently returning to the UK, and to deal with those who had already returned home and pose a threat to national security and public safety.<sup>77</sup>

Thereby, The UK government introduced *Counter-Terrorism and Security (CTSA) 2015*. The CTSA received Royal Assent on 12th February 2015. The Act strengthens the authorities' powers to effectively implement the CONTEST Strategy (discussed in part 2). Sections 1 & 2 supplement the authorities' powers enshrined under schedule 1 of the TPIM Act 2015 by introducing new clauses to seize travel documents of the suspected individuals planning or trying to leave the UK and to impose exclusion orders requiring the suspected individuals not to return to the UK.<sup>78</sup> The Act empowers the Secretary of State to impose exclusionary order with or without the court's permission depending on the nature of the perceived threat. Once an individual is

<sup>76</sup> Home Office, '[Memorandum to the Home Affairs Committee: Post-Legislative Scrutiny of the Counter-Terrorism and Security Act 2015](#)' (Home Office, June 2021), accessed 30 August 2021.

<sup>77</sup> *ibid.*

<sup>78</sup> *Counter-Terrorism and security Act 2015*, 12 February 2015, sections 1 & 2.



subjected to an exclusion order, the Act empowers the Secretary of State to allow the suspected individual to return to the UK by issuing a return permit after undergoing an extensive screening process.<sup>79</sup> The Act further empowers the Secretary of State to impose any or all the restrictions or obligations provided under the schedule 1 of the TPIM Act 2011.

Furthermore, the Act introduces new preventive provisions, which create a statutory duty for 'public bodies specified under schedule 6 of the ACT'<sup>80</sup> to prevent vulnerable individuals under their control, care, or influence from being drawn into terrorism.<sup>81</sup> The Act empowers the Secretary of State for the Home Department to publish guidance and strategies that governors of the specified bodies must follow when fulfilling their duties. The Act obliges the governors, managers, and officers in charge of the public bodies to take adequate measures, in light of the Prevent guidance or strategies issued by the Secretary of State, to prevent vulnerable individuals under their control, care or influence from being drawn to terrorism. Prevent responsibilities of the public bodies has been discussed below in the CONTEST Strategy - a secondary framework on counter-terrorism.

## Counter-Terrorism and Border Security Act 2019

The Counter-Terrorism and Border Security (CTBS) Act was enforced on the 12th February 2019 to supplement the existing laws. The primary aim of the Act was to close the gaps in the existing laws that appeared with the rapid advancement of online communication channels. The Act extends the existing offence of displaying an image in a public place that arouses reasonable suspicion that the person is a member or supporter of a proscribed organisation to online communication channels.<sup>82</sup> The Act also extends the offence of obtaining information that is likely to be useful to a terrorist or a terrorist organisation to content that is viewed or streamed online.<sup>83</sup> The Act extends the maximum imprisonment for certain preparatory terrorism offences to 15 years.<sup>84</sup>

Section 18 and 58 amend the Terrorism Act 2000 to allow a pause of the detention clock when a detained individual is transferred from police custody to a hospital and to extend the offence of viewing or accessing information or material that is likely to

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<sup>79</sup> Ibid, sections 5 & 6.

<sup>80</sup> Public bodies include local government authorities - councils, county councils, city councils; criminal justice institute - prisons, young offender institutions, rehabilitation centres, training centres, and probation services centres; educational institutes - universities, colleges, vocational training centers, and child care centres; health care institutes - NHS and local health boards; and law enforcement authorities - police, the British transport police, and the port police.

<sup>81</sup> *Counter-Terrorism and security Act 2015*, (n 78) sections 26 & 36.

<sup>82</sup> *Counter-Terrorism and Border Security Act 2019*, 12 February 2019, Section 2.

<sup>83</sup> Ibid, section 3.

<sup>84</sup> Ibid, section 7.

be useful to a person committing or preparing an act of terrorism. The Act enables the public bodies to refer an individual at risk of being drawn into terrorism to the local channel - a panel of the members of the local police, NHS, local council, and educational institute established under section 36 of the CTSA 2015 to help, advice, and support individuals identified at risk of being drawn into terrorism.<sup>85</sup>

## Police, Crime, Sentencing and Courts Bill - The Proposed Bill

In addition to above mentioned existing legislation, the Home Secretary has introduced a new bill entitled, *Police, Crime, Sentencing and Courts Bill*, in the Parliament. The Bill has been passed by the House of Commons and sent to the House of Lords where it is undergoing detailed line by line examination of all clauses and schedules at the Committee stage. Once the Bill clears the Committee stage it will go through third and final reading by the House before it is approved and sent for Royal Assent. In addition to introducing new provisions regarding sentencing, detention, release, management and rehabilitation of offenders, the Bill intends to introduce new provisions to enhance counter-terrorism collaboration between police, emergency works and other law enforcement authorities.<sup>86</sup> It further intends to enhance the law enforcement authorities' powers for the purposes of preventing, detecting, investigating or prosecuting crime or investigating other matters.<sup>87</sup>

## 5. Relevant Policy and Institutional Framework in the Field of Radicalisation

In addition to the primary legislation discussed above, the UK Government published a comprehensive Counter-Terrorism Strategy (CONTEST) in 2018 as part of the secondary frameworks. The CONTEST strategy focuses on systemic coordination between the private and the public sector organisations to make it harder for terrorists and those who support their ideology to plan and carry out terror attacks. To this end, the CONTEST endeavours effective coordination between intelligence agencies, police, local authorities, health care organisations, and educational institutes to disrupt terrorist threats earlier to share early information about vulnerabilities as they appear.<sup>88</sup>

The CONTEST gives increased importance to local level interventions; therefore, it aims to strengthen the resilience of local communities to terrorism.<sup>89</sup> In addition to public sector organisations, the strategy also prioritises engaging private sector organisations to prevent acts of terrorism before happening. For example, retail

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<sup>85</sup> Ibid, section 20.

<sup>86</sup> *Police, Crime, Sentencing and Courts Bill*, Originated in the House of Commons, sessions 2019-21, 2021-22, available at <<https://bills.parliament.uk/bills/2839>> accessed 26 September 2021.

<sup>87</sup> Ibid.

<sup>88</sup> Home Office, '[CONTEST: The United Kingdom's Strategy for Countering Terrorism](#)' accessed 23 June 2021, 9.

<sup>89</sup> Ibid.



businesses are engaged to gain faster alerts to suspicious purchases and design out vulnerabilities in the industry or in the products that terrorists exploit.<sup>90</sup>

The CONTEST is implemented under four 'strategic work strands - Prevent, Pursue, Protect, and Prepare - to realise the aforementioned objectives. The Prevent strand aims to safeguard vulnerable communities and prevent vulnerable individuals from being drawn to radicalisation.<sup>91</sup> In contrast, the other three strands focus on protecting the general public from the impacts of terrorism by enhancing capabilities of law enforcement authorities to timely detect, investigate, disrupt terrorist activities, and ensure quick responses to terrorist attacks to reduce their impacts.<sup>92</sup> Therefore, in line with the scope of this report, this section only focuses on inter-organizational coordination to implement the Prevent strand of the CONTEST strategy, i.e., to early detect vulnerabilities in the communities and safeguard vulnerable individuals from being drawn to radicalisation. It attributes a social responsibility on private and public sector organisations to stop people from becoming terrorists or directly or indirectly supporting terrorists.

## Prevent Programme

The Prevent Programme gives effect to statutory duty of public sector organisations arising from section 26 of the *Counter-Terrorism Act 2015* (discussed above).<sup>93</sup> It is the only state programme which centres on deradicalisation. It aims to safeguard and support individuals vulnerable to being drawn to radicalisation or who are (or have been) of interest to law enforcement agencies due to their possible links to terrorist-related activities but who are not currently the subject of any active investigations.<sup>94</sup> The Programme also aims to support the rehabilitation and disengagement of offenders on probation and those subject to TPIM notice under TPIM Act 2011 for their direct or indirect involvement in terror-related activities.<sup>95</sup> The programme tackles the causes of radicalisation by responding to the ideological challenge of terrorism.<sup>96</sup> Under the Programme, the Secretary of the State for Home Department, issues sector specific guidance - under section 29 of the *Counter-Terrorism Act 2015*. The guidance identifies best practice for each of the main sectors and describes ways in which they can comply with the Prevent duty. The guidance provides information on how compliance with the Prevent duty will be monitored. It helps the public and private sector organisations effectively safeguard and support

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<sup>90</sup> Ibid.

<sup>91</sup> Ibid, 10.

<sup>92</sup> Ibid, 10-11.

<sup>93</sup> *Counter-Terrorism and security Act 2015*, (n 78), section 26.

<sup>94</sup> Home Office, CONTEST (n 88).

<sup>95</sup> Ibid, 31.

<sup>96</sup> Ibid, 31.

their employees and individuals under their supervision, from causes of radicalisation and protect vulnerable individuals<sup>97</sup> from being drawn to terrorism.<sup>98</sup>

The Prevent Guidance advises the senior managers or the officers in charge of the affairs of the local authorities, schools and universities, health organisations, police, prisons and probation, and the private sector organisations to:

- Establish mechanisms for understanding the risk of radicalisation in their organisations;
- Ensure staff understand the risk and report suspected behaviours beforehand;
- Build capabilities to deal with the risk;
- Communicate and promote the importance of the Prevent duty;
- Ensure staff implement the duty effectively;
- put in place and employ ‘Prevent Coordinators’ to monitor individuals being drawn to extreme ideologies, such as Jihadism, racial supremacy, ultranationalism, and xenophobia;
- Raise concerns with police when concerned about a member or an employee’s suspected radical activity;
- Form a local panel in consultation with the police and other relevant authorities, if any, to assess the individual’s level of vulnerability and allocate appropriate support.<sup>99</sup>

A vulnerability case referred under the Prevent programme is screened by police to check whether the individual should be investigated for terrorism activity or be referred for an appropriate channel support, where a panel of representatives from the local authority, education, and health services assess the extent of vulnerability to decide whether the circumstances warrant for the adoption of the individual as a channel case. Once the panel is assured that the individual is being drawn to radicalisation, appropriate further support is provided, and the case is marked as a channel case.

For example, in the education sector, the Home Office, in coordination with the Department of Education, has developed a website – Educate against Hate – that provides guidance to teachers, management, and parents to enable them to protect children from being drawn to radicalisation.<sup>100</sup> Similarly, Education and Training Foundation’s “Prevent for Further Education and Training” and Universities-UK’s “Safe campus Communities” websites provide guidance for the higher education sector. The

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<sup>97</sup> According to Rita Augestad Knudsen (2020, 48), CONTEST Strategy views vulnerability as a mental condition that makes someone susceptible to moral change and exposed to radicalisation settings.

<sup>98</sup> *Counter-Terrorism and security Act 2015*, (n 78), section 29.

<sup>99</sup> Home Office, CONTEST (n 88), 31.

<sup>100</sup> *Ibid.*

Prevent Programme further focuses on people subject to court-approved conditions, including all terrorism and terrorism-related offenders on probation licence, as well as those on Terrorism Prevention and Investigation Measures and those who have returned from conflict zones in Syria or Iraq and are subject to Temporary Exclusion Orders.<sup>101</sup>

## Courts' Approach towards Human Rights Violation under Counter-Terrorism Laws

The *Human Rights Act* (HRA) 1998 was the first legislation that influenced the United Kingdom's counter-terrorism laws to protect human rights and fundamental freedoms. The HRA stipulates that primary legislation and subordinate legislation, so far as it is possible to do so, must be read and given effect in a way that is compatible with the ECHR.<sup>102</sup> In a case where a provision of either the primary or secondary legislation is incompatible with the ECHR, section 4 HRA empowers the competent courts - the Supreme Court, the Judicial Committee of the Privy Council, the Scottish High Court of Justiciary, the High Court, or the Court of Appeal - to declare the provision incompatible with the ECHR.<sup>103</sup> Where a provision of the secondary legislation, which is enacted in the exercise of the power conferred by the primary legislation, and when it is established that the primary legislation prevents revocation or amendment of the incompatible provision, the court may declare that provision of the primary legislation incompatible with the ECHR. House of Lords judgment in *A and others v Secretary of State for Home Department* and the High Court judgement in *Secretary of State v MB* (discussed above) are examples of such incompatible declarations. The House of Lords declared section 23 ATCS 2001 incompatible with Article 5 ECHR.<sup>104</sup> Whereas the High Court declared section 3 of the repealed PTA 2005, incompatible with Article 6 ECHR.<sup>105</sup>

Nonetheless, the courts have given a wide 'margin of appreciation'<sup>106</sup> to laws empowering police, to stop and search suspected individuals without reasonable suspicion, indiscriminately hold the fingerprints and DNA of the suspected and unconvicted individuals, and various other legislative provisions which clearly transgressed the human rights guaranteed under the ECHR. Consequently, counter-terrorism laws have also been challenged in the ECtHR. The case of *Gillan and*

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<sup>101</sup> Ibid.

<sup>102</sup> *Human Rights Act* 1998, 9 November 1998, section 3.

<sup>103</sup> Ibid, section 4.

<sup>104</sup> *A and others v Secretary of State for the Home Department*, (n 43).

<sup>105</sup> *Secretary of State v MB*, (n 44).

<sup>106</sup> The term 'margin of appreciation' refers to the space for manoeuvre that the Strasbourg organs are willing to grant national authorities, in fulfilling their obligations under the ECHR. The rule - also called deference in the domestic courts - has been applied by Justice Sales in *R (S) v Secretary of State for Justice* [2012] EWHC 1810 (Admin), para 47.

*Quinton v UK* (discussed above) and *S & Marper v UK* (Applications nos. 30562/04 and 30566/04) are the notable examples.

In *Gillan and Quinton* case, the ECtHR declared that police's stop and search powers under section 44 of Terrorism Act 2000 were unproportionate with the ECHR.<sup>107</sup> Similarly, in *S & Marper v UK*, the ECtHR ruled that the provisions in the *Police and Criminal Evidence Act* (PACE) 1984 permitting the authorities to indiscriminately hold the fingerprints and DNA from unconvicted individuals violated the right to privacy, guaranteed under Article 8 ECHR.<sup>108</sup> Following the judgment, the Government introduced sections 14-23 in the *Crime and Security Act* (CSA) 2010 to allow for the retention of fingerprints and DNA profiles of persons arrested for, but not convicted of, any recordable offence for six years.<sup>109</sup> Nonetheless, these changes also created reservation provisions to make it possible for the authorities to hold fingerprints and DNA of suspected and unconvicted individuals on national security grounds for a longer period.<sup>110</sup> However, these provisions were not enforced due to incompatibility with the ECHR.

Therefore, to balance law enforcement authorities' stop and search and DNA retention powers with the ECHR, the Government adopted the *Protection of Freedoms Act* (PFA) 2012. Part 1 of the Schedule 10 of the PFA 2012 repealed the provisions allowing authorities to hold the fingerprints and DNA of suspected individuals on national security grounds.<sup>111</sup> Furthermore, the PFA 2012 introduced section 63D in the PACE Act 1984 to oblige the authorities to destroy the fingerprints and DNA of suspected individuals if; the recording of the fingerprints or DNA was unlawful, or the recording of fingerprints or DNA resulted from an unlawful arrest.<sup>112</sup> Additionally, the PFA 2012 repealed police powers to stop and search without reasonable suspicion (section 44-47); it inserted section 47A in the Terrorism Act 2000 to empower a police constable to stop and search without reasonable suspicion in a specified location following authorisation from a senior police officer.<sup>113</sup>

## Law Enforcement Authorities' Approach towards Radicalisation

Despite human rights protection provided by the HRA 1998 and FPA 2012, counter-terrorism laws "over emphasis on jihadist terrorism"<sup>114</sup> indirectly encourages the law

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<sup>107</sup> *Gillan and Quinton v. UK* (n 32).

<sup>108</sup> *S & Marper v UK*, Applications nos. 30562/04 and 30566/04, (ECtHR\GC, 04 December 2008), para 125.

<sup>109</sup> *Crime and Security Act* 2010, sections 14-23.

<sup>110</sup> *Ibid*, section 14-18, 20, & 21.

<sup>111</sup> *Protection of Freedoms Act* 2012, 1 May 2012, Schedule 10.

<sup>112</sup> *Ibid*, section 1.

<sup>113</sup> *Ibid*, section 61.

<sup>114</sup> Interview with Barrister Jonathan Hall, Independent Reviewer of the UK Counter-Terrorism Legislation, 6KBW, (online, 12 July 2021).

enforcement authorities, i.e. Police and Crown Prosecution Service (CPS) - state institutions working under the executive authority of the Home Secretary (the Government) - to focus on the threat of jihadist terrorism. Accordingly, a vast body of the existing literature shows that Muslim community is reluctant to cooperate with the law enforcement authorities.<sup>115</sup> There is a general perception in the Muslim community that the law enforcement authorities suspect the community across the board. Institutional bias has strong tendency to cause procedural injustice; therefore, it is important to examine whether the counter-terrorism laws' overemphasis on jihadist terrorism somehow causes the law enforcement authorities - Police and CPS - overlook the rising threat of far-right terrorism. In this section, we examine the police force counter-terrorism activities which give a presumption of the existence of institutional bias; where, in the next section we examine the CPS politicisation of counter-terrorism laws to shows existence of inconsistent and double standards viz-a-viz, jihadist terrorism and far-right terrorism.

To investigate police prejudice against Muslim community, we analyse the use of sections 43 and 47A of Terrorism Act 2000 to stop and search suspected individuals. Under section 43, the threshold of reasonable suspicion is determined by the police constable on the spot, which may vary on a case-by-case basis due to exercise of independent judgement by the police constables, and their perception of the ethnic and religious minorities. In July 2017, a video surfaced on social media which quickly became a headline in the newspapers showed a Muslim man stopped, handcuffed, and searched for suspicion related to terror activity.<sup>116</sup> The video shows that the man was rushing to join the prayer ceremony in the local mosque. On the way, a white lady suspected him for wearing too many clothes and called the police to investigate. On arriving at the scene, the police immediately handcuffed the suspect and later informed him about the reasons behind their act, after completing the search.

In the case of stop and search under section 47A, only a senior police officer of the rank of assistant chief constable may authorise the use of without reasonable stop and search when there is credible information about a potential threat of terrorism. Following the 2017 Parsons Green attack,<sup>117</sup> when the counter-terrorism police have

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<sup>115</sup> Joel David Taylor, "Suspect Categories," *Alienation and Counterterrorism: Critically Assessing PREVENT in the UK* (2020) 32 *Terrorism and Political Violence* 851; Tahir Abbas and Imran Awan, 'Limits of UK Counterterrorism Policy and Its Implications for Islamophobia and Far Right Extremism' (2015) 4 *International Journal for Crime, Justice and Social Democracy* 16; Francesco Ragazzi, 'Suspect Community or Suspect Category?' (n 4) 724; Adrian Cherney and Kristina Murphy, 'What Does It Mean to Be a Moderate Muslim in the War on Terror? Muslim Interpretations and Reactions' (2016) 9 *Critical Studies on Terrorism* 159.

<sup>116</sup> May Bulman, '[Muslim Man Stopped and Searched on Way to Mosque Because He Was "Wearing Too Many Clothes"](#)' *The Independent* (14 July 2017), accessed 13 September 2021.

<sup>117</sup> On 15 September 2017, Ahmed Hassan, an 18 years old Iraqi asylum seeker and affiliate of ISIS, detonated a controlled bomb on a District Line train at the Parson Green train station. Ahmed admitted carrying out the terrorist act and claimed that he was forced to undergo jihadist training by the ISIS. He feared harm to his family had he refused to carry out the bombing.

information about the presence of another bomber around, the first-ever authorisation was given to stop and search suspected individuals without reasonable suspicion. Thereby, by the year ending March 2018, police stopped and searched 149 individuals without reasonable suspicion.<sup>118</sup> Stop and search data released by Home Office for the year ending March 2018 doesn't mention the ethnicity of the individuals stopped and searched under section 47A of terrorism Act. Jonathan Hall - the independent reviewer of the UK counter-terrorism law - argues that the police had a description of the suspected terrorist at large; therefore, it was expected that the majority of the individuals stopped and searched under section 47A would belong to a Muslim community.<sup>119</sup>

According to the Police Code of Practice, there must be an objective reason for suspecting an individual's involvement in terrorism, which should normally be based on intelligence or information about, or behaviour of the suspected individual.<sup>120</sup> Therefore, the grounds for reasonable suspicion depend on the circumstances of each individual case. The Code further states that reasonable suspicion may exist without specific information or intelligence but on the basis of the behaviour of a person.<sup>121</sup> The grounds for reasonable suspicion may arise from a person's behaviour at or near a location that has been identified as a potential target for terrorists.<sup>122</sup> Therefore, the judgment of the police constable in the field and their perceptions are more likely to play a part in determining who to suspect and who not to. In such situation, counter-terrorism laws' overemphasis on jihadist terrorism and the degree of discretion allowed to police constables under the Police Code of Practice, make it more likely for police constables to suspected individuals belonging to ethnic and religious minorities, particularly those exercising their social and cultural values in public. Accordingly, the stop and search data released by the Home Office, shows that, during the years ending March 2019 and March 2020, the numbers of individuals belonging to ethnic and religious minorities were stopped and searched at a rate 4.1 times higher than those belonging to white ethnic groups.<sup>123</sup> Geographical clustering can be observed within urban areas, with the highest proportion of stop and searches occurring within Metropolitan London.<sup>124</sup> 80% of all stop and searches of ethnic minorities were made by the Metropolitan police in London, and 90% of all stop and searches of ethnic

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<sup>118</sup> Home Office, '[Police Powers and Procedures England and Wales Year, Ending 31 March 2018](#)' (Home Office 2018) 24/18, 26.

<sup>119</sup> Interview with Barrister Jonathan Hall, (n 114).

<sup>120</sup> Home Office, '[Code of Practice \(England, Wales And Scotland\) for the Exercise of Stop and Search Powers under Sections 43 And 43a of the Terrorism Act 2000, and the Authorisation and Exercise of Stop and Search Powers Relating to Section 47a of, and Schedule 6b to, the Terrorism Act 2000](#)' para 3.4.1, accessed 8 July 2021.

<sup>121</sup> *ibid* 3.4.2.

<sup>122</sup> *ibid* 3.4.2.

<sup>123</sup> Home Office, '[Police Powers and Procedures England and Wales](#)', accessed 07 July 2021.

<sup>124</sup> Race Disparity unit, '[Stop and search data and the effect of geographical differences](#)', accessed 05 October 2021.



minorities occurred in 8 police force areas in relatively urban areas. However, a paradox can be observed here, as the *proportion* (not actual number) of relative disparity in stop and searches between white and ethnic minority individuals was highest in peri-urban and rural regions (e.g., Dorset county with a population of 426,515, and Warwickshire county with a population of 568,167, compared to Greater London with a population of 8.908 million), where the stop and search rate of ethnic minority individuals was 23 (Dorset), 14 (West Mercia police force serving Herefordshire, Worcestershire, Shropshire and Telford & Wrekin), and 13 (Warwickshire) times more the rate of white individuals, despite these areas being predominantly culturally homogenous (i.e., white)<sup>125</sup>. Therefore, it appears that institutional bias exist in the counter-terrorism activities of police force.

The existence of institutional bias in the counter-terrorism activities of police is further vindicated by the stark difference in the numbers of Prevent referrals made by police and other public sector organisations such as the education sector. From the 1<sup>st</sup> of April 2019 to the 31<sup>st</sup> of March 2020, out of 1,950 Prevent referrals made by police, 566 cases - amounting to 38% of the total police referrals - related to the concern of jihadist radicalisation.<sup>126</sup> In contrast, out of the 1928 referrals from the education sector, only 281 case - amounting to 14.5% of the total education sector referrals - related to jihadist radicalisation.<sup>127</sup> Similarly, police made 508 referrals related to concerns of far-right radicalisation - amounting to 26% of the total police referrals. In contrast, the education sector made 423 referrals relating to concerns of right-wing radicalisation - amounting to 22% of the total education sector referrals.<sup>128</sup>

Thus, it appears that counter-terrorism laws' overemphasis on jihadist terrorism and the degree of discretion exercised by police in determining the threshold of reasonable suspicion, gives rise to institutional bias in police force. This helps us further conclude that the overemphasis on jihadist terrorism prevents police from effectively responding to the existing trends of far-right radicalisation. Thereby, counter-terrorism laws remain incapable to achieve the desired object of de-radicalising society.

## International Organisations and NGOs Role in De-Radicalisation

Non-governmental organisations (NGOs) and international organisations working for protection of human rights have played a significant role in shaping the counter-terrorism legislation and de-radicalising society by highlighting controversial and possibly counter-productive provisions of the counter-terrorism laws. For example, after the appointment of William Shawcross as an independent reviewer of the Prevent Strategy, on 21 January 2021, Amnesty International, along with 'Big Brother Watch'

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<sup>125</sup> Ibid.

<sup>126</sup> Home Office, '[Individuals Referred to and Supported through the Prevent Programme](#)': (2021) 14, accessed 1 July 2021.

<sup>127</sup> Ibid.

<sup>128</sup> Ibid.

and 15 other NGOs objected to his appointment for his Islamophobic views about Europe's Muslim community.<sup>129</sup>

In his views, "*Islam is one of the greatest, most terrifying problems of our future. I think all European countries have vastly, very quickly growing Islamic populations.*"<sup>130</sup>

Shawcross is further accused of disproportionately focusing on Muslim charities and putting them under investigation during his previous appointment as Chair of Charity Commission.<sup>131</sup> According to these NGOS, the appointment of William Shawcross has made clear, beyond doubt, that the UK government has no interest in conducting an objective and impartial review of the strategy, nor in engaging meaningfully with communities affected by it.<sup>132</sup> Therefore, these NGOS have announced to conduct a parallel review of the Prevent Strategy.<sup>133</sup> Furthermore, 'Hope not Hate' - an NGO - runs deradicalisation programmes at schools to promote interfaith harmony and social inclusion. As a result of these activities, NGOS have been playing a significant role in promoting inter-faith harmony and making the counter-terrorism laws objective and impartial.

## 6. Case Studies

### Case 1: Prosecution of right-wing political violence

In *R v Gul*, the Supreme Court observed that the broad width of the terrorism definition affords wide discretion to the Crown Prosecution Service (CPS) in deciding whom to arrest and whom to prosecute.<sup>134</sup> The issue was again highlighted in the case of Thomas Mair – the murderer of Labour Party MP Jo Cox - when the CPS decided not to prosecute Mair for terrorism. It was obvious that Mair had a clear political ideology, embraced far-right political ideals, and evidently committed the murder to further his cause.<sup>135</sup> When committing the gruesome act of repetitively stabbing the victim 15 times, he shouted, "This is for Britain", "keep Britain independent", and "Britain first". The police recovered material of far-right ideology from his house.

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<sup>129</sup> Amnesty International, '[UK: NGOs Condemn Appointment of William Shawcross and Announce Civil Society-Led Review of Prevent](#)' (2021) accessed 4 October 2021.

<sup>130</sup> Ibid

<sup>131</sup> Ibid

<sup>132</sup> Ibid

<sup>133</sup> Ibid

<sup>134</sup> *R v Gul* (Appellant), [2013] UKSC 64, 23 October 2013, para 63.

<sup>135</sup> We have identified Mair's case in an extensive way in our D.Rad 3.2 report on hotspots of radicalisation where we extensively dealt with West Yorkshire and Mair's murder of Jo Cox, see Holmes I, Ozduzen O, Ferenczi N, Liu K, Holmes N, 'Hotspots of Radicalisation in the UK' (2021) D.Rad Country Report 3.2.



Mair was prosecuted and convicted under para 4 (2)c of schedule 21 of the *Criminal Justice Act* (2003) for murder to advance a political cause.<sup>136</sup> Soon after the court's decision, Sue Hemming, the head of special crime and counter-terrorism at the CPS, argued that the CPS successfully demonstrated that Mair's criminal act was motivated by hate that intended to advance a twisted political ideology.<sup>137</sup> However, in view of the recovery of white supremacist material from Mair's house and considering the fact that he made no effort to defend himself in the court, it was possible for the CPS to get conviction under the Terrorism Act 2000. Designation of the Cox murder as an act of political hatred raised concerns about differential treatment of far-right terrorism. It also raises a need to answer when an act of hatred becomes terrorism?

To answer this question, we need to consider the definition of terrorism and 'hate crime' used by the CPS. As discussed above, Terrorism Act defines terrorism as advancement of a radical, political, religious, racial, or ideological cause through the use or threat of action that endangers a person's life [.....]. However, the CPS defines hate crime as an act of violence or hostility based on race, religion, disability, sexual orientation or transgender identity.<sup>138</sup> This clearly shows that, on one hand, Mair's act of pursuing a political cause does not come under the definition of 'hate crime' *per se*. On the other hand, the use of violence to pursue a political cause has been clearly enshrined in the definition of terrorism. Generally, an act of violence may fall short of being labelled as terrorism when there is an angle of racial, religious, disability, or sexual orientation hatred in the violent act of perpetrator. This is clearly not a case in the present situation; therefore, it is reasonable to argue that Mair's act should have been treated as an act of terrorism.

## Case 2: Prosecution of Jihadist political violence

This gives rise to suspicion that the CPS may have been treating far-right terrorism differently as compared to jihadist terrorism. To address this dichotomy, we look at the cases of British nationals who have travelled to Syria to join the camps of the proscribed Kurdish armed forces – PKK (The Kurdistan Workers' Party (Partiya Karkerên Kurdistan) and ISIS (Islamic State of Iraq and the Levant), created quite a controversy about the politicisation of counter-terrorism laws. These cases show inconsistency in the application of counter-terrorism laws. For example, Aidan James who is one of the nearly 100 British nationals who travelled to Iraq and Syria to join the Kurdish nationalist army YPG (People's Protection Units) of the Syrian Democratic Forces (SDF) in the fight against ISIS.<sup>139</sup> Aidan James was arrested on his arrival in

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<sup>136</sup> *Criminal Justice Act*, 2003, Schedule 21, para 4 (2) (c).

<sup>137</sup> David Anderson, '[The Terrorism Acts in 2015](#)' (Home Office 2016) para 2.23, accessed 3 July 2021.

<sup>138</sup> Crown Prosecution Service, '[Hate Crime | The Crown Prosecution Service](#)' accessed 26 September 2021.

<sup>139</sup> Yusuf Furkan Sen and Adhe Nuansa Wibisono, 'Combating the Evolving Foreign Terrorist Fighters: Recent Developments of PYD/YPG's Foreign Terrorist Fighters in Turkey and Several European Countries'

the UK and charged for 'planning act of terrorism' and 'joining terrorist camps' run by proscribed PKK respectively.<sup>140</sup> He was sentenced to twelve months imprisonment for joining PKK's training camps; while the CPS decided not to prosecute for planning acts of terrorism because it did not believe that the acts amounted to terrorism for the reason that YPG was an ally of the US and UK forces in the fight against ISIS.<sup>141</sup> The CPS argued that James' case was different from the rest of the cases because he supported and promoted the political and ideological cause of the SDF.<sup>142</sup> In contrast, in the case of Dan Newey, another British citizen who joined the YPG in 2017 to fight against ISIS, even his father Paul Newey was arrested when Dan was in Rojava. Paul Newey was taken for questioning, arrested, then charged with helping terrorism for sending money and eventually acquitted of all charges.<sup>143</sup> This not only accounts for the politicisation of counter-terrorism laws but shows the ambivalent stance of the Conservative Party government towards British citizens fighting in Syria for even the same cause.

Furthermore, Shamima Begum, who left the United Kingdom at the age of 15 to marry an ISIS combatant in Syria, was not only deprived of her British nationality, but her application for "leave to enter" the UK to fight her case in the UK courts was also rejected by the Home Office. The Home Secretary in a letter addressed to her parents informed her of the Home Office decision to deprive her of British nationality by using section 40(2) of the *British Nationality Act 1981*. The section states that a person may be deprived of his or her citizenship if such 'deprivation is conducive to the public good'.<sup>144</sup> However, section 40(4) of the *British Nationality Act 1981* which is reproduction of Article 8(1) of the *Convention on the Reduction of Statelessness 1961*, prohibits Home Office from depriving a person of their citizenship if the deprivation would render them stateless.<sup>145</sup> Therefore, the Home Office reasoned that Begum would not be rendered stateless because she was eligible for Bangladeshi nationality through her parents.<sup>146</sup>

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in Olcay Colak and Sevily Ece Gumus Ozuyar (eds), *Selected topics on Defence Economics and Terrorism* (EKİN Basım Yayın Dağıtım (2020) 171.

<sup>140</sup> Terrorism Act 2000, (n 5) section 5 & 8.

<sup>141</sup> Daniel De Simone, '[Aidan James: The British Man Who Was Put on Trial after Fighting IS](#)' *BBC News* (24 October 2019), accessed 7 July 2021.

<sup>142</sup> *Ibid.*

<sup>143</sup> Daniel D Simon, '[Father and Son left in Limbo by Failed Terror Case](#)' *BBC News* (3 July 2020), accessed 9 September 2021.

<sup>144</sup> Steve Clarke, '[Shamima Begum and the Public Good](#)' (*Practical Ethics*, 15 May 2019), accessed 18 July 2021; Amanda D Brown, 'Globalizing Anudo v. Tanzania: Applying the African Court's Arbitrariness Test to the UK's Denationalization of Shamima Begum' (2020) 18 *UCLA Journal of Islamic and Near Eastern Law* 140; *British Nationality Act 1981*, 01 January 1983, section 40(2).

<sup>145</sup> *British Nationality Act 1981*, (n 144) section 40(4); UN General Assembly, *Convention on the Reduction of Statelessness*, 30 August 1961, United Nations, Treaty Series, vol. 989, p. 175, Article 7(1).

<sup>146</sup> Steve Clark, '[Shamima Begum and Public Good](#)', (n 144).

According to section 5 of the *Bangladesh Citizenship Act* 1951 and rule a child born outside Bangladesh 'shall be a citizen of Bangladesh by descent' if either of his or her parents is a citizen of Bangladesh at the time of his or her birth.<sup>147</sup> Nonetheless, Rule 9 of the *Bangladesh Citizenship Rules* 1952 states that the child must apply at the designated local government office to become a Bangladeshi citizen.<sup>148</sup> Therefore, Begum was not required to apply for Bangladeshi citizenship. She was only required to register as a Bangladeshi citizen, in Bangladesh or at any designated office overseas, before the age of 21. This option is not available anymore because she is over 21 years of age; therefore, she does not meet the qualifying age limit. The Ministry of Foreign Affairs of Bangladesh, in a press release unequivocally stated that Begum never held Bangladeshi nationality, nor did she ever visit Bangladesh in her life.<sup>149</sup>

Now the question that needs answering is whether the Home Office can rely on the fact that Begum was eligible to register as Bangladeshi citizen when deprived of British nationality, and that by not registering as a Bangladeshi citizen she brought statelessness on herself. To answer this question we need to consider Bangladesh's Ministry of Foreign Affairs statement which threatened Begum with capital punishment had she entered Bangladesh.<sup>150</sup> Capital punishment is prohibited under Protocols 6 and 13 of the European Convention on Human Rights, and the UK has ratified both.<sup>151</sup> Thus, it wouldn't be reasonable for the Home Office to argue that Begum failed to register as a Bangladeshi citizen when she was eligible to do so. In such a situation, depriving Begum of British nationality was only justified had the Home Secretary sought two specific guarantees from the Bangladeshi government; firstly, that Begum wouldn't be punished with capital sentence, and secondly, the Bangladeshi Government would register her as a Bangladeshi nationality. Thus, considering that the Home Office did not seek these assurances from the Bangladeshi government and that Begum is not eligible to register as a Bangladeshi citizen anymore, it was never justified then and it is not justified now to deprive Begum of her British nationality.

Furthermore, the Home Office has denied Begum's application for an entry clearance visa to re-enter the UK and fight her legal case in the UK courts. Begum has filed two separate legal challenges in the UK courts; one against the Home Office's decision of depriving her of British nationality, and the second against the Home Office's decision

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<sup>147</sup> *Bangladesh Nationality Act* 1951, section 5.

<sup>148</sup> *Bangladesh Citizenship Rules* 1952, Rule 9.

<sup>149</sup> Bangladesh: Ministry of Foreign Affairs, '[Bangladesh: Ministry of Foreign Affairs Press Release Regarding Shamima Begum](#)', accessed 14 September 2021.

<sup>150</sup> Brown (n 144) 145.

<sup>151</sup> Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, 4 November 1950, ETS 5, Art 2; Council of Europe, *Protocol 13 to the European Convention on Human Rights and Fundamental Freedoms on the Abolition of the Death Penalty in All Circumstances*, 3 May 2002, ETS 18, Art 1.

of not allowing her to return to the UK to fight her case. Her main case contesting the Home Office's decision of depriving her of British nationality is awaiting a hearing at the time of writing, while she has lost the second case that contested the Home Office's decision of refusing her leave to enter the UK.<sup>152</sup>

In light of these developments, Charles Clarke<sup>153</sup>, the previous Home Secretary of the Labour Government, critically engaged with the approaches and policy-making of the Tories Government's Home Secretaries, particularly the current home secretary Priti Patel (2019 to present). He argues that;

*“The current home secretary Patel seeks to promote polarisation in society compared to her immediate predecessors and this damages British society. We should rather put social justice at the core of our policies and approaches to prevent alienation and polarisation.”*

As an example to what Clarke recounts in the interview, the Secretary of State's reasoning that Begum brought these harsh consequences on herself by joining the terrorist group in Syria does not seem to be consistent with the policy. This event further creates polarisation in UK society as far-right extremists such as Mair have not been prosecuted whereas Begum has been penalised without being heard, showing how the state treats its own citizens differently based on their political views, racial and ethnic identities.

Begum is accused of servicing the ISIS morality police and recruiting young women for the terrorist group, which need to be proved before an accused could be penalised. Nevertheless, she was declared a threat to national security. In the views of Jonathan Hall:

*“dual nationals who joined terrorist groups in the Syrian Civil War are at more risk than the mono-nationals; mono-nationals who joined ISIS and Kurdish armed groups returned to the UK without any restriction; the law enforcement authorities could hardly be blamed for doing what they can to stop these people from returning”.*<sup>154</sup>

Such an ethnic division of counter-terrorism laws and discriminatory treatment of the equally harmful phenomenon of terrorism by the law enforcement authorities, as a vast body of existing literature suggest is feared to be counter-productive.<sup>155</sup> Terrorism

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<sup>152</sup> *R v Secretary of State for the Home Department*, UKSC 2020/0157, 26 February 2021.

<sup>153</sup> Interview with Charles Clarke (online, 31 March 2021).

<sup>154</sup> Interview with Jonathan Hall, (n 114).

<sup>155</sup> Francesco Ragazzi, 'Suspect Community or Suspect Category? The Impact of Counter-Terrorism as "Policed Multiculturalism"' (2016) 42 *Journal of Ethnic and Migration Studies* 724; Mary J Hickman and others, '[Suspect Communities?": Counter-Terrorism Policy, the Press, and the Impact on Irish and Muslim Communities in Britain](#)' (London Metropolitan University 2011) accessed 30 June 2021;

definition enshrined under section 1 of the Terrorism Act is broad enough to deal with all three cases equally. Furthermore, counter-terrorism is equipped enough to neutralise a threat through the use of TPIM orders and many more measures. The decision to decline basic rights to Begum – who was born, raised, and radicalised in the UK – for the act(s) she has committed in adolescence is just an example of the priority of the counter-terrorism laws, and the law enforcement authorities give to jihadist terrorism. Furthermore, the Supreme Court observed that the width of the terrorism definition shifts an enormous weight of responsibility onto the shoulders of police and prosecution in deciding who to arrest and whom to prosecute;<sup>156</sup> therefore, the sanctity of the counter-terrorism laws rests in the hands of the law enforcement authorities. These cases of radicalisation and the ways they have been treated by the British state show the politicisation and ambivalence of counter-terrorism laws and the British state's indirect complicity in the legitimisation of white supremacy and Islamophobia in society.

## 7. Conclusion

This report shows that the UK counter-terrorism legislation is equipped enough to deal with all political, religious, cultural, and racial motives of terrorism. However, the counter-terrorism legislation predominantly emphasises jihadist terrorism as the number one security threat. This appears to shape the counter-terrorism responses of the law enforcement authorities as, on the one hand, police conceive jihadist terrorism in broader meanings; it places all acts of jihadist terrorism under the umbrella of Islamic radicalisation. On the other hand, it subdivides far-right terrorism according to political, cultural, or racial causes pursued by the actor. Therefore, terms such as political terrorism, white supremacy, neo-Nazism, and white cultural imperialism are commonly used to describe or otherwise disperse far-right terrorism through subdivision.<sup>157</sup>

On the 22nd of March, 2017, Khalid Masood drove a car onto the pavement outside the Palace of Westminster, injuring over 50 individuals and killing four, before exiting the car and fatally stabbing a member of law enforcement. If we look at the motives of the Westminster attacker - a terrorism act related to Islamic terrorism; it appears that the attacker did not further any religious cause. The text message retrieved by the police from the attacker's phone showed that he sought revenge against Western military action in the Middle East; nevertheless, his act was immediately categorised as Islamic terrorism. This shows that there has been no effort by the law enforcement authorities to subdivide Islamist radicalisation according to the political, cultural, or racial ideologies of the attacker. Jonathan Hall agrees that Islamist radicalisation

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Joel David Taylor, "Suspect Categories," *Alienation and Counterterrorism: Critically Assessing PREVENT in the UK* (2020) 32 *Terrorism and Political Violence* 851.

<sup>156</sup> *R v Gul*, (n 134) para 63.

<sup>157</sup> Jonathan Hall, '[The Terrorism Acts in 2019: Report of the Independent Reviewer of Terrorism Legislation on the Operation of the Terrorism Acts 2000 and 2006](#)' (Home Office 2021), accessed 3 July 2021, 19.

should also be divided according to ideologies pursued by the attackers.<sup>158</sup> Such division is more likely to reduce polarisation in society and reduce alienation of Muslim community.<sup>159</sup>

Another drawback of the counter-terrorism laws' over-emphasis on jihadist radicalisation is that far-right terrorism – which grew exponentially during the last few years – did not receive adequate attention from the law enforcement authorities, as proven by Thomas Mair case in this report. In parallel to this, this report also aimed to clarify the racialised aspect of the practice of stop and search powers given to the police. The disproportionate appeal and impact of the stop and search powers of the police may increase if Priti Patel's new policing bill entitled Police, Crime, Sentencing and Courts Bill 2021 is to be put into practice without the amendments recommended by various human rights organisations, think tanks and political organisations. Overall, this report examined how the counter-terrorism laws in the UK in the last decade has been built on a perception of jihadist terrorism being a more serious threat than far-right terrorism. In conclusion, the report endorses the recommendation of Barrister Jonathan Hall that the same processes should apply to all kinds of terrorism, irrespective of the ideology that inspires it<sup>160</sup> and that social justice should be at the core of counter-terrorism laws, as suggested by Charles Clarke.

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<sup>158</sup> Interview with Jonathan Hall, (n 114).

<sup>159</sup> Joel David Taylor, 'Suspect Categories' (n 115) 32; Tahir Abbas and Imran Awan, 'Limits of UK Counterterrorism Policy and Its Implications for Islamophobia and Far Right Extremism' (n 115); Mary J Hickman and others, '[Suspect Communities?": Counter-Terrorism Policy, the Press, and the Impact on Irish and Muslim Communities in Britain](#)' (London Metropolitan University 2011), accessed 30 June 2021; Francesco Ragazzi, 'Suspect Community or Suspect Category?' (n 4) 724; Adrian Cherney and Kristina Murphy, 'What Does It Mean to Be a Moderate Muslim in the War on Terror? Muslim Interpretations and Reactions' (2016) 9 Critical Studies on Terrorism 159; Paul Thomas, 'Changing Experiences of Responsibilisation and Contestation within Counter-Terrorism Policies: The British Prevent Experience' (2017) 45 Policy and Politics 305; Paul Thomas, 'The Perception of Counter-radicalisation by Young People', (n 4).

<sup>160</sup> Jonathan Hall, '[The Terrorism Acts in 2019](#)', (n 157) 16.



## 8. Bibliographical References & List of Cases

*A and others v Secretary of State for the Home Department* (2004), UKHL 56.

Abbas T, & Awan I, 'Limits of UK Counterterrorism Policy and Its Implications for Islamophobia and Far Right Extremism', (2015) *International Journal for Crime, Justice and Social Democracy* 16.

Abbas T, 'Implementing "Prevent" in Countering Violent Extremism in the UK: A Left-Realist Critique' (2019) 39 *Critical Social Policy*, 396.

Abbas T, '*Islamophobia and Radicalisation: A Vicious Cycle*', (2019) Oxford: Oxford University Press.

Adetunji J, 'Photographers Fear They Are Target of New Terror Law' [2009] *the Guardian* <<http://www.theguardian.com/media/2009/feb/12/photographers-anti-terror-laws>> accessed 1 September 2021.

Amnesty International, 'Submission from Amnesty International, Europe and Central Asia Programme, to the JCHR's Inquiry into Counter-Terrorism Policy and Human Rights' (2005) <<https://publications.parliament.uk/pa/jt200506/jtselect/jtrights/75/75we08.htm>> accessed 31 August 2021.

Amnesty International, 'United Kingdom: Amnesty International's Memorandum to the UK Government on Part 4 of the Anti-Terrorism, Crime and Security Act 2001' (Amnesty International 2002) EUR 45/017/2002 <<https://www.amnesty.org/en/documents/document/?indexNumber=eur45%2f017%2f2002&language=en>> accessed 15 July 2021.

Amnesty International, 'UK: NGOs Condemn Appointment of William Shawcross and Announce Civil Society-Led Review of Prevent' [2021] *Amnesty International* <<https://www.amnesty.org/en/latest/press-release/2021/02/uk-ngos-condemn-appointment-of-william-shawcross-and-announce-civil-society-led-review-of-prevent/>> accessed 4 October 2021.

Anderson D, 'The Terrorism Acts in 2015' (Home Office 2016) <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/573678/THE\\_TERRORISM\\_ACTS\\_IN\\_2015\\_\\_print\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/573678/THE_TERRORISM_ACTS_IN_2015__print_.pdf)> accessed 3 July 2021..

Anti-Terrorism Crime and security Act 2001, 14 December 2001 <<https://www.legislation.gov.uk/ukpga/2001/24/introduction>> accessed 13 July 2021.

*Ashby v White* [1703] 92 ER 126.

*Attorney General v De Keyser's Royal Hotel Ltd* [1920] AC 508.

Augestad Knudsen R, 'Measuring radicalisation: risk assessment conceptualisations and practice in England and Wales', (2020) 12 *Behavioral Sciences of Terrorism and Political Aggression* 37.

*Bangladesh Citizenship Rules* 1952.



Bangladesh: Ministry of Foreign Affairs, 'Bangladesh: Ministry of Foreign Affairs Press Release Regarding Shamima Begum' <[https://mofa.gov.bd/site/press\\_release/http%3A%2F%2Fmofa.gov.bd%2Fsite%2Fpress\\_release%2Fa5530623-ad80-4996-b0b4-f60f39927005](https://mofa.gov.bd/site/press_release/http%3A%2F%2Fmofa.gov.bd%2Fsite%2Fpress_release%2Fa5530623-ad80-4996-b0b4-f60f39927005)> accessed 14 September 2021.

*Bangladesh Nationality Act 1951.*

Basbugoglu T, Korkut U, and Ashraf T, 'Syria: "A New Cold War"' (2020) 11 Political Insight 31.

Blick A, Choudhury T, Weir S, 'The Rules of the Games', (2006) Human Rights Centre: University of Essex <<https://www.statewatch.org/media/documents/news/2006/nov/uk-rules-of-the-game.pdf>> accessed 15 July 2021.

Brader C, 'Extremism in Prisons: Are UK Deradicalisation Programmes Working?' <<https://lordslibrary.parliament.uk/extremism-in-prisons-are-uk-deradicalisation-programmes-working/>> accessed 7 June 2021.

British Nationality Act 1981, 01 January 1983.

Brown AD, 'Globalizing Anudo v. Tanzania: Applying the African Court's Arbitrariness Test to the UK's Denationalization of Shamima Begum' (2020) 18 UCLA Journal of Islamic and Near Eastern Law <<https://escholarship.org/uc/item/0bj2k264>> accessed 18 July 2021.

Bulman M, 'Muslim Man Stopped and Searched on Way to Mosque Because He Was "Wearing Too Many Clothes"' *The Independent* (14 July 2017) <<https://www.independent.co.uk/news/uk/home-news/muslim-man-stop-search-mosque-wear-too-many-clothes-regent-s-park-mosque-muhammad-chamoune-police-a7837126.html>> accessed 13 September 2021.

Carlile L, 'Report on the operation of the Terrorism Act 2000 and of Part 1 of the Terrorism Act 2006', (June 2009) <<http://www.statewatch.org/news/2009/jun/uk-carlile-report-2008.pdf>> accessed 12 September 2021.

Carlile L, 'The Definition of Terrorism', March 2007 <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/228856/7052.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228856/7052.pdf)> accessed 13 September 2021.

*Chahal v The United Kingdom* (Application No 70/1995/576/662/ECtHR(GC), 15 November 1996).

Cherney A and Murphy K, 'What Does It Mean to Be a Moderate Muslim in the War on Terror? Muslim Interpretations and Reactions' (2016) 9 Critical Studies on Terrorism 159.

Clarke S, 'Shamima Begum and the Public Good' (*Practical Ethics*, 15 May 2019) <<http://blog.practicaethics.ox.ac.uk/2019/05/shamima-begum-and-the-public-good/>> accessed 18 July 2021.

Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5.

Council of Europe, Protocol 3 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 29, 30 and 34 of the Convention, 6 May 1963, ETS 45.

Counter-Terrorism Act 2008, 26 November 2008 <<https://www.legislation.gov.uk/ukpga/2008/28/introduction>> accessed 14 July 2021.

Counter-Terrorism and Border Security Act 2019, 12 February 2019 <<https://www.legislation.gov.uk/ukpga/2019/3/contents>> accessed 14 July 2021.

Counter-Terrorism and security Act 2015, 12 February 2015 <<https://www.legislation.gov.uk/ukpga/2015/6/contents/enacted/data.htm>> accessed 14 July 2021.

*Crime and Security Act 2010.*

*Criminal Justice Act 2003* <<http://www.legislation.gov.uk/ukpga/2003>> accessed 8 January 2017.

Crown Prosecution Service, 'Hate Crime | The Crown Prosecution Service' <<https://www.cps.gov.uk/crime-info/hate-crime>> accessed 4 October 2021.

Elliott C, 'Terror in the Press: How the U.K.'s Threatened Criminalization of the Guardian under the Terrorism Act 2000 Would Violate 10 of the European Convention on Human Rights' (2015) 30 *American University International Law Review* 101.

*Entick v Carrington* [1765] EWHC KB J98.

Ferenczi, N., Ozduzen, O., Holmes, I., & Liu, K., 'Cultural Drivers of Radicalisation', (2021) D.Rad D5.1 UK Country Report.

*Gillan and Quinton v. The United Kingdom*, Application no. 4158/05, (ECtHR, 12 January 2010).

Hall J, 'The Terrorism Acts in 2019: Report of the Independent Reviewer of Terrorism Legislation on the Operation of the Terrorism Acts 2000 and 2006' (Home Office 2021) <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/972261/THE\\_TERRORISM\\_ACTS\\_IN\\_2019\\_REPORT\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972261/THE_TERRORISM_ACTS_IN_2019_REPORT_Accessible.pdf)> accessed 3 July 2021.

Hay C, 'The normalizing role of rationalist assumptions in the institutional embedding of neoliberalism', (2004) 33 *Economy and society*, 500.

Hickman MJ and others, 'Suspect Communities?': Counter-Terrorism Policy, the Press, and the Impact on Irish and Muslim Communities in Britain' (London Metropolitan University 2011) <<http://repository.londonmet.ac.uk/6541/>> accessed 30 June 2021.

*HM Treasury v Ahmed & Others (2010) UKSC 2.*

Holmes I, Ozduzen O, Ferenczi N, Liu K, and Rosun N, 'Hotspots of Radicalisation in the UK', (2021) D.Rad D.3.2 country report.

Home Office, 'Code of Practice (England, Wales And Scotland) For the Exercise of Stop and Search Powers under Sections 43 And 43a of the Terrorism Act 2000, and the Authorisation and Exercise of Stop and Search Powers Relating to Section 47a of, and Schedule 6b to, the Terrorism Act 2000'  
<[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/97944/stop-search-code-of-practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/97944/stop-search-code-of-practice.pdf)> accessed 8 July 2021.

Home Office, 'CONTEST: The United Kingdom's Strategy for Countering Terrorism'  
<[https://nls.ldls.org.uk/welcome.html?ark:/81055/vdc\\_100060290728.0x000001](https://nls.ldls.org.uk/welcome.html?ark:/81055/vdc_100060290728.0x000001)> accessed 23 June 2021.

Home Office, Explanatory Notes on CTSA 2015  
<<https://www.legislation.gov.uk/ukpga/2015/6/notes/data.pdf>> accessed 16 June 2021.

Home Office, 'Individuals Referred to and Supported through the Prevent Programme': (Home Office 2019)  
<[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/853646/individuals-referred-supported-prevent-programme-apr2018-mar2019-hosb3219.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/853646/individuals-referred-supported-prevent-programme-apr2018-mar2019-hosb3219.pdf)> accessed 1 July 2021.

Home Office, 'Memorandum to the Home Affairs Committee: Post-Legislative Scrutiny of the Counter-Terrorism and Security Act 2015' (Home Office, June 2021)  
<[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/994074/CCS207\\_CCS0621700320-001\\_CP\\_455\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/994074/CCS207_CCS0621700320-001_CP_455_Web_Accessible.pdf)> accessed 30 August 2021.

Home Office, 'Police Powers and Procedures England and Wales Year, Ending 31 March 2018' (Home Office 2018) 24/18  
<[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/751215/police-powers-procedures-mar18-hosb2418.pdf#page=26](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/751215/police-powers-procedures-mar18-hosb2418.pdf#page=26)>.

Home Office, '[Police Powers and Procedures England and Wales](#)' (Home Office, 2021) <<https://www.gov.uk/government/collections/police-powers-and-procedures-england-and-wales>> accessed 07 July 2021.

Human Rights Act 1998, 9 November 1998.

Hussain Y, & Bagguley P, (2012). 'Securitized citizens: Islamophobia, racism and the 7/7 London bombings', (2012) 60 *The Sociological Review* 715.

Kettell S, '*Dirty politics?: New Labour, British democracy and the invasion of Iraq*', (2006) Zed Books, London.

Lynch O, 'British Muslim youth: Radicalisation, terrorism and the construction of the "other"', (2013) 6 *Critical Studies on Terrorism* 241.

Max Rowlands, 'UK: The Misuse of Section 44 Stop and Search Powers Continues despite European Court Ruling' (*Statewatch Analysis*)

<<https://www.statewatch.org/media/documents/analyses/no-105-uk-section-44.pdf>> accessed 30 August 2021.

Mason R, 'David Cameron: I Am Evangelical about Christian Faith' *The Guardian* (17 April 2014) <<https://www.theguardian.com/politics/2014/apr/16/david-cameron-evangelical-about-christian-faith>> accessed 15 September 2021.

Ozduzen O, Ferenczi N, Holmes N, Rosun I, Liu NK, & Alsayednoor S, 'Stakeholders of (De)-Radicalisation in the UK', (2021) D.Rad D3.1 UK Country Report <<https://dradproject.com/?publications=stakeholders-of-de-radicalisation-in-the-uk>> accessed on the 21st of June 2021.

Parker E, 'Implementation of the UK Terrorism Act 2006-the relationship between counterterrorism law, free speech, and the Muslim community in the United Kingdom versus the United States', (2007) 21 *Emory Int'l L. Rev.* 711.

Paul Thomas, 'Changing Experiences of Responsibilisation and Contestation within Counter-Terrorism Policies: The British Prevent Experience' (2017) 45 *Policy and Politics* 305.

Peck J, 'Explaining (with) Neoliberalism' (2013) 1 *Territory, Politics, Governance* 132.

*Police, Crime, Sentencing and Courts Bill*, Originated in the House of Commons, sessions 2019-21, 2021-22, available at <<https://bills.parliament.uk/bills/2839>> accessed 26 September 2021.

Protection of Freedoms Act 2012, 1 May 2012 <<https://www.legislation.gov.uk/ukpga/2012/9/contents/enacted>> accessed 14 July 2021.

*R v Gul (Appellant)*, [2013] UKSC 64, *United Kingdom: Supreme Court*, 23 October 2013.

*R v Lord Chancellor* [2017] UKSC 51.

*R (Miller) v Prime Minister* [2019] UKSC 41.

*R v Secretary of State for the Home Department*, UKSC 2020/0157, 26 February 2021.

*R v Lyons* [2002] UKHL 44.

Ragazzi F, 'Suspect Community or Suspect Category? The Impact of Counter-Terrorism as "Policed Multiculturalism"' (2016) 42 *Journal of Ethnic and Migration Studies* 724.

*S & Marper v UK*, Applications nos. 30562/04 and 30566/04, (ECtHR\GC, 04 December 2008), para 125.

*Secretary of State v MB* [2006] EWHC 1000 (Admin).

Sen YF and Wibisono AN, 'Combating the Evolving Foreign Terrorist Fighters: Recent Developments of PYD/YPG's Foreign Terrorist Fighters in Turkey and

Several European Countries' in Olcay Colak and Sevilay Ece Gumus Ozuyar (eds), *Selected topics on Defence Economics and Terrorism* (EKİN Basım Yayın Dağıtım 2020).

Simone DD, 'Aidan James: The British Man Who Was Put on Trial after Fighting IS' *BBC News* (24 October 2019) <<https://www.bbc.com/news/uk-50156963>> accessed 7 July 2021.

Simon DD, 'Father and Son left in Limbo by Failed Terror Case' *BBC News* (3 July 2020) <<https://www.bbc.com/news/uk-53270896>> accessed 9 September 2021.

*Somerset v Stewart* [1772] 98 ER 499.

Stephen W, 'The Terrorism Act 2000 Schedule 7 and Its Implications for the Human Rights of Passengers Travelling through United Kingdom Airports.' (2015) 6 *Global Security Studies* 10.

Taylor JD, "'Suspect Categories,' Alienation and Counterterrorism: Critically Assessing PREVENT in the UK' (2020) 32 *Terrorism and Political Violence* 851.

Terrorism Act 2000, Chapter 11, 20 July 2000.

Terrorism Act 2006, 30 March 2006 <[https://www.legislation.gov.uk/ukpga/2006/11/pdfs/ukpga\\_20060011\\_en.pdf](https://www.legislation.gov.uk/ukpga/2006/11/pdfs/ukpga_20060011_en.pdf)> accessed 13 July 2021.

Terrorist Asset Freezing Act 2010, 16 December 2010 <[https://www.legislation.gov.uk/ukpga/2010/38/pdfs/ukpga\\_20100038\\_en.pdf](https://www.legislation.gov.uk/ukpga/2010/38/pdfs/ukpga_20100038_en.pdf)> accessed 14 July 2021.

Terrorism Prevention and investigation Measures Act 2011, 14 December 2011 <[https://www.legislation.gov.uk/ukpga/2011/23/pdfs/ukpga\\_20110023\\_en.pdf](https://www.legislation.gov.uk/ukpga/2011/23/pdfs/ukpga_20110023_en.pdf)> accessed 14 July 2021.

Thomas P, 'The Perception of Counterradicalisation by Young People' in Lore Colaert (ed), *'De-radicalisation' Scientific insights for policy* (Flemish Peace Institute 2017).

United Nations Act (1946), Chapter 45 9 & 10 Geo 6, 15 April 1946.

United Nations General Assembly, *Convention on the Reduction of Statelessness*, 30 August 1961, United Nations, Treaty Series, vol. 989, p. 175.

United Nations Security Council, Resolution no 1373 adopted by the Security Council on 28 September 2001.

United Nations Security Council, Resolution no 1452, adopted by the Security Council on 20 December 2002.

United Nations Security Council, Security Council resolution 2178 (2014) [on threats to international peace and security caused by foreign terrorist fighters], 24 September 2014, S/RES/2178 (2014), available at: <https://www.refworld.org/docid/542a8ed74.html> (accessed 7 July 2021).

Yesufu S, 'Discriminatory Use of Police Stop-and-Search Powers in London, UK'  
(2013) 15 International Journal of Police Science & Management 281.



## ANNEXES

### ANNEX I: OVERVIEW OF THE LEGAL FRAMEWORK ON RADICALIZATION & DE-RADICALIZATION

Legislation title (original English) and number	Date	Type of law (i.e. statute, regulation, rule, etc...)	Object/summary of legal issues related to radicalization	Link/PDF
<i>The Terrorism Act 2000</i>	20 July 2000	Government Bill	Repealed the Prevention of Terrorism Act 1989. The Act was considered controversial due excessive police powers. The ECtHR declared section 44 of the Terrorism Act empowering police to stop and search without reasonable suspicion, incompatible with the ECHR.	<a href="https://www.legislation.gov.uk/ukpga/2000/11/contents">https://www.legislation.gov.uk/ukpga/2000/11/contents</a>
<i>Anti-Terrorism Crime and Security Act 2001</i>	Introduced 19 Nov 2001, enforced 14 Dec 2001	Government Bill	The ATCS extended the state authorities' existing powers to forfeiture the terrorist properties, issue orders to this effect, and deport immigrants and asylum seekers suspected of having links to terrorism. The ATCS Act empowers the Secretary of State to classify them as "suspected international terrorists" when they could not be deported due to any reason.	<a href="https://www.legislation.gov.uk/ukpga/2001/24/contents">https://www.legislation.gov.uk/ukpga/2001/24/contents</a>
<i>Terrorism Act 2006</i>	Introduced on 12 October 2005, entered into force on 30 March 2006	Government Bill	Due to massive development in the social media technology, Terrorism Act 2006 endeavoured to counter online criminal activity	<a href="https://www.legislation.gov.uk/ukpga/2006/11/contents">https://www.legislation.gov.uk/ukpga/2006/11/contents</a>

<i>Counter-Terrorism Act 2008</i>	28 November 2008	Government Bill	Increased police powers for counter terrorism to make further provision about the detention and questioning of terrorist suspects and the prosecution and punishment of terrorist offences	<a href="https://www.legislation.gov.uk/ukpga/2008/28/contents/enacted">https://www.legislation.gov.uk/ukpga/2008/28/contents/enacted</a>
<i>Terrorist Asset Freezing Act 2010</i>	Entered into force on 17 December 2010	Government Bill	The Act re-incorporate the United Nations Anti-Terrorism resolutions in the domestic laws following the Supreme Court declaration that the <i>Terrorism Act 2006</i> was ultra vires to the <i>United Nations Act 1946</i>	<a href="http://www.fscmontserrat.org/wp-content/uploads/2008/09/Terrorist-Asset-Freezing-etc.-Act-2010-U.K.-and-territories.pdf">http://www.fscmontserrat.org/wp-content/uploads/2008/09/Terrorist-Asset-Freezing-etc.-Act-2010-U.K.-and-territories.pdf</a>
<i>Terrorism Prevention and Investigation Measures Act 2011</i>	Entered into force on 14 December 2011	Government Bill	The TPIMA abolished the <i>Prevention of Terrorism Act 2005</i> . Powers to impose 'control orders' was replaced with 'terrorism prevention and investigation measures' powers. Under schedule 1, the Act enshrines a set of requirements, restrictions, or obligations which may be imposed on an individual reasonably suspected of being a threat to the public	<a href="https://www.legislation.gov.uk/uksi/2016/1166/pdfs/uksi_20161166_en.pdf">https://www.legislation.gov.uk/uksi/2016/1166/pdfs/uksi_20161166_en.pdf</a>
<i>Counter-Terrorism and Security Act 2015</i>	12 February 2015	Government Bill	Strengthened the legal powers and capabilities of law enforcement and intelligence agencies to disrupt terrorism and prevent individuals from being radicalised.	<a href="https://www.legislation.gov.uk/ukpga/2015/6/schedule/7/enacted">https://www.legislation.gov.uk/ukpga/2015/6/schedule/7/enacted</a>
<i>Counter-Terrorism and Border Security Act 2019</i>	12 April 2019	Government Bill	Created new terrorism-related offences.	<a href="https://www.legislation.gov.uk/ukpga/2019/3/section/3">https://www.legislation.gov.uk/ukpga/2019/3/section/3</a>
<i>Human Rights Act 1998</i>	9 November 1998	Government Bill	Sets out the fundamental rights and freedoms that everyone in the UK is entitled to. The HRA 1998 incorporates the ECHR into domestic law in the UK.	<a href="https://www.legislation.gov.uk/ukpga/1998/42/schedule/1">https://www.legislation.gov.uk/ukpga/1998/42/schedule/1</a>

<i>Protection of Freedoms Act 2012</i>	1 May 2012	Government Bill	Regulates surveillance, biometric data, protection of property and counter-terrorism powers.	<a href="https://www.legislation.gov.uk/ukpga/2012/9/contents/enacted">https://www.legislation.gov.uk/ukpga/2012/9/contents/enacted</a>
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## NATIONAL CASE LAW

Case number	Date	Name of the court	Object/summary of legal issues related to radicalization	Link/PDF
<i>A and others v Secretary of State for the Home Department</i> (2004, UKHL 56)	16 December 2004	House of Lords	The Court decided that s 23 of the Anti-terrorism, Crime and Security Act 2001 was unlawful under the Human Rights Act 1998 in that it discriminated against non-nationals.	<a href="https://www.bailii.org/uk/cases/UKHL/2004/56.html">https://www.bailii.org/uk/cases/UKHL/2004/56.html</a>
<i>Gillan and Quinton v. The United Kingdom</i> , Application no. 4158/05	12 January 2010	ECtHR	The Court found that stop and search powers without reasonable suspicion under the Terrorism Act 2000 were a violation of the right to privacy.	<a href="https://www.statewatch.org/media/documents/news/2010/jan/echr-judgment-gillan-quinton.pdf">https://www.statewatch.org/media/documents/news/2010/jan/echr-judgment-gillan-quinton.pdf</a>
<i>Chahal v The United Kingdom</i> (Application No. 70/1995)	11 November 1996	ECtHR	The ECtHR held that the Home Secretary decision to expel Mr Chahal on security grounds, violated prohibition of inhuman and degrading treatment - enshrined under Article 3 of the European Convention on Human Rights (ECHR). The Court argued that a signatory state cannot return a foreign national on security grounds when there are foreseeable chances of inhuman and degrading treatment in the receiving state.	<a href="https://www.refworld.org/pdfid/3ae6b69920.pdf">https://www.refworld.org/pdfid/3ae6b69920.pdf</a>

<i>A and others v Secretary of State for the Home Department</i> (2004), UKHL 56.	2004	House of Lords	The House of Lords decided that Section 23 of the Anti-terrorism, Crime and Security Act 2001 was unlawful under the Human Rights Act 1998 in that it discriminated against non-nationals.	<a href="https://www.bailii.org/uk/cases/UKHL/2004/56.html">https://www.bailii.org/uk/cases/UKHL/2004/56.html</a>
<i>HM Treasury v Ahmed &amp; Others</i> (2010) UKSC 2.	27 January 2010	United Kingdom Supreme Court	This case is concerning the United Nations Act 1946 and the powers it grants to the executive to issue terrorism control orders.	<a href="https://www.bailii.org/uk/cases/UKSC/2010/2.html">https://www.bailii.org/uk/cases/UKSC/2010/2.html</a>
<i>R v Gul</i> (Appellant), [2013] UKSC 64, Court, [63]	23 October 2013	United Kingdom Supreme Court	Supreme Court observed that the broad width of the terrorism definition affords wide discretion to the Crown Prosecution Service (CPS) in deciding whom to arrest and whom to prosecute.	<a href="https://www.supremecourt.uk/cases/uksc-2012-0124.html">https://www.supremecourt.uk/cases/uksc-2012-0124.html</a>
<i>R v Secretary of State for the Home Department</i> , UKSC 2020/0157,	26 February 2021.	United Kingdom Supreme Court	Shamima Begum's main case contesting the Home Office's decision of depriving her of British nationality is awaiting a hearing at the time of writing, while she has lost the second case that contested the Home Office's decision of refusing her leave to enter the UK.	<a href="https://www.supremecourt.uk/cases/uksc-2020-0157.html">https://www.supremecourt.uk/cases/uksc-2020-0157.html</a>
<i>Secretary of State v MB</i> [2006] EWHC 1000 (Admin)	31 October 2007	House of Lords	The Prevention of Terrorism Act 2005 was repealed on 15 December 2011, following the High Court judge - Justice Jeremy M Sullivan's declaration that the Secretary of State cannot impose 18 hours curfews on suspected individuals without derogating from the Article 5 ECHR. Therefore, the court declared section 3 of the PTA 2005 incompatible with the right to fair trial.	<a href="https://publications.parliament.uk/pa/ld200607/ldjudgmt/jd071031/home-1.htm">https://publications.parliament.uk/pa/ld200607/ldjudgmt/jd071031/home-1.htm</a>

**ANNEX II: LIST OF INSTITUTIONS DEALING WITH RADICALIZATION & COUNTER-RADICALIZATION**

<b>Authority</b> (English and original name)	<b>Tier of government</b> (national, regional, local)	<b>Type of organization</b>	<b>Area of competence in the field of radicalization &amp; deradicalization</b>	<b>Link</b>
The Home office	national	State (government)	Deradicalisation	<a href="https://www.gov.uk/government/organisations/home-office">https://www.gov.uk/government/organisations/home-office</a>
Her Majesty's Prison and Probation service	national	State (government)	Deradicalisation	<a href="https://www.gov.uk/government/organisations/her-majestys-prison-and-probation-service">https://www.gov.uk/government/organisations/her-majestys-prison-and-probation-service</a>
The national Probation service	national	State (government)	Deradicalisation	<a href="https://www.gov.uk/government/organisations/probation-service">https://www.gov.uk/government/organisations/probation-service</a>
Exit UK	National	NGO	Deradicalisation (right-wing)	<a href="https://exituk.org/">https://exituk.org/</a>
Hope Not Hate	National	NGO	Deradicalisation (right-wing)	<a href="https://hopenotthate.org.uk/">https://hopenotthate.org.uk/</a>
Territorial police services	Regional (43 police forces in England; one police force in Scotland and one in Wales)	State (government)	Prevention of crime; deradicalisation services	<a href="https://www.police.uk/pu/finding-a-police-force/">https://www.police.uk/pu/finding-a-police-force/</a>

Counter Terrorism Police	Regional  (11 Units across UK)	State (Government	Prevention of crime	<a href="https://www.counterterrorism.police.uk/">https://www.counterterrorism.police.uk/</a>
British Transport Police	National	State (Government)	Prevention of crime	<a href="https://careers.btp.police.uk/about_btp/specialist_teams.aspx">https://careers.btp.police.uk/about_btp/specialist_teams.aspx</a>



### ANNEX III: BEST PRACTICES/INTERVENTIONS/PROGRAMMES

National level

Programme	Institution(s)	Aim	Source	Evidence of effectiveness / literature
Prevent	The Home Office	“The Prevent strategy, published by the Government in 2011, is part of our overall counter-terrorism strategy, CONTEST. The aim of the Prevent strategy is to reduce the threat to the UK from terrorism by stopping people becoming terrorists or supporting terrorism. In the Act this has simply been expressed as the need to “prevent people from being drawn into terrorism”.	<a href="https://www.gov.uk/government/publications/prevent-duty-guidance/revi-sed-prevent-duty-guidance-for-england-and-wales">https://www.gov.uk/government/publications/prevent-duty-guidance/revi-sed-prevent-duty-guidance-for-england-and-wales</a>	<a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/97976/prevent-strategy-review.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/97976/prevent-strategy-review.pdf</a> Qurashi, F. The Prevent strategy and the UK ‘war on terror’: embedding infrastructures of surveillance in Muslim communities. <i>Palgrave Commun</i> 4, 17 (2018). <a href="https://doi.org/10.1057/s41599-017-0061-9">https://doi.org/10.1057/s41599-017-0061-9</a>
The Healthy Identity Intervention	The Home Office, Her Majesty’s Prison and Probation service	The aim of this programme is to encourage and facilitate desistance and disengagement from extremist offending for any prisoner involved with extremism or terrorism		<a href="https://www.gov.uk/government/publications/intervening-with-extremist-offenders-a-pilot-study">https://www.gov.uk/government/publications/intervening-with-extremist-offenders-a-pilot-study</a>

Channel programme	The Home Office	“Channel provides early support for anyone who is vulnerable to being drawn into any form of terrorism or supporting terrorist organisations, regardless of age, faith, ethnicity or background.”	<a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/964567/6.6271_HO_HMG_Channel_Duty_Guidance_v14_Web.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/964567/6.6271_HO_HMG_Channel_Duty_Guidance_v14_Web.pdf</a>	Qurashi, F. The Prevent strategy and the UK ‘war on terror’: embedding infrastructures of surveillance in Muslim communities. <i>Palgrave Commun</i> 4, 17 (2018). <a href="https://doi.org/10.1057/s41599-017-0061-9">https://doi.org/10.1057/s41599-017-0061-9</a>
Exit UK	ExitUK	Integrative, Educational, Therapeutic support provided to radicalised individuals or those who are vulnerable to radicalisation. Support is provided for individuals to exit radicalised communities and groups safely	<a href="https://exituk.org/">https://exituk.org/</a>	<a href="https://exituk.org/stories">https://exituk.org/stories</a>
Hope not Hate	Hope not Hate	Educational and Legal Support for individuals who have been radicalised or are vulnerable to radicalisation	<a href="https://hopenothate.org.uk/">https://hopenothate.org.uk/</a>	

**Sub-national/Regional level/Local level**

Programme	Institution(s)	Aim	Source	Evidence of effectiveness / literature
Prevent	1. Police forces 2. National Health Service 3. Local Councils 4. Educational Institutes	The aim of the Prevent strategy is to reduce the threat to the UK from terrorism by stopping people becoming terrorists or supporting terrorism.	<a href="https://www.gov.uk/government/publications/prevent-duty-guidance/revise-prevent-duty-guidance-for-england-and-wales">https://www.gov.uk/government/publications/prevent-duty-guidance/revise-prevent-duty-guidance-for-england-and-wales</a>	Qurashi, F. The Prevent strategy and the UK 'war on terror': embedding infrastructures of surveillance in Muslim communities. <i>Palgrave Commun</i> 4, 17 (2018). <a href="https://doi.org/10.1057/s41599-017-0061-9">https://doi.org/10.1057/s41599-017-0061-9</a>

## **ANNEX IV: POLICY RECOMMENDATIONS**

De-radicalisation initiatives should be restructured. This includes:

- The training of practitioners and professionals working in de-radicalisation, especially the Prevent programmes
- The development of effective measures that cooperate with schools, communities, and local level stakeholders
- Community engagement to ensure radicalised individuals receive sufficient help
- The development of de-radicalisation measures that deal explicitly with right-wing extremism
- The development of de-radicalisation measures that are devoid of institutionalised Islamophobia
- The development of approaches and de-radicalisation measures that focus on gender, age, and that prioritize needs tailored to religious and ethnic issues and backgrounds of diverse populations.