De-radicalisation – Illusion or Reality?

READING GIVEN AT BARNARD'S INN

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I am delighted to have been asked to deliver the Barnard's Inn Reading for 2020. Having done so once before, I am conscious of the special privilege of being here (albeit virtually) this year. I follow many distinguished Readers.

It is an especial honour to succeed Lord Kerr of Tonaghmore, who last year spoke of the challenges which confront judges when required to take on the role of a jury in applying a common sense approach to the meaning of words. He reflected on the essential role of the courts in upholding individual rights, and how best this role can be performed whilst also ensuring that decisions accord with society's broader expectations of justice. His subject is analogous to that of any reviewer of counter-terrorism law, in that the watchwords that make such law credible are the proportionate upholding of rights, the application of common sense, and meeting the expectations that the responsible majority hold for the law.

I feel I should start with some basic credentials, which may assist any external recipients of this lecture to conclude that, even if controversial in part, my conclusions are considered and evidence based, in the sense of being capable of withstanding familiar, sometimes very audible, and withering, but often inaccurate, challenge. I was the Independent Reviewer of Terrorism Legislation from 11th September 2001 until early 2011. I was appointed just hours before the twin towers were hit, an event which changed not merely my professional life, but, more to the point, dramatically changed international political dynamics. 9/11 caused a fundamental reassessment of the risks and threat of terrorism in almost every country in the world. As a dominant theme, it replaced old Cold War, nation-based political thinking. It should be remembered

that Islamist terrorism affected Muslim countries at least as deeply as non-Muslim countries, as I shall illustrate later.

I was succeeded in 2011 by the excellent Lord Anderson of Ipswich QC. He provided an impetus to the subject, through his powers of legal analysis and his ethical matrix. At that time I provided the independent critique to the new Coalition Government of the revised Prevent policy that they were to introduce. In 2019 I became the Independent Reviewer of Prevent: half-way through that appointment, and after a great deal of the analysis had been done, I was judicially reviewed out of office on the grounds that the method of my selection was not an open competition. Apart from residual frustration, I make no complaint about that outcome. So I have spent much of the last 20 years immersed in issues in which the largest challenge is preventing and dealing with radicalisation.

Context always is key to any debate. In the past three months the context has changed. Over 40,000 British citizens, young and mostly older, have died from Covid-19. It has laid bare to all of us, especially we of older generations, our vulnerability to natural phenomena. It has exposed the frailties of human planning, even when carried out by prominent politicians and scientists, almost all of high ability and all capable of sharing their diverse qualifications and life experiences. It has heightened our sensitivity to events, even elevating an unwise walk in the woods to political crisis status.

There is a possibility – I would say a risk – that the volume and outcomes of Covid-19 may lead some to disregard terrorism or see it now as a minor issue, in relative terms. They should not forget that, according to analysis released in November 2019 by the Institute for Economics and Peace, the UK was found to be the EU country most affected by terrorism, ahead of France, Germany, Belgium and Spain; and, outside the EU, ahead of Sri Lanka, Iran, Russia and Israel. They should not underestimate the terrible trauma, both physical and conceptual, that terrorist attacks cause to victims, to the public at large, and to government. The demand for 'something to be done' is never shriller.

These are events which citizens at large can find difficult to understand. Their reaction to terrorists is an illustration of a sentiment expressed by Othello to Desdemona: 'I understand a fury in your words but not the words.' The anxiety the public experience from terrorism is less easy to comprehend than our reaction to disease.

The threat of an attack remains high – a terrorist attack is rated as 'likely' – and there is an increased threat from female terrorists and from home-grown, self-motivating, actors. By the end of 2019 there were 231 UK prisoners categorised as terrorists, some of whom are right-wing extremists, each of whom on release may present a significant threat. In that year 280 people were arrested for terrorism-related offences. In total, since 9/11, 4682 individuals have been arrested for such offences.

In the terrorism context, what has happened since the 2020 pandemic commenced? Does it justify placing terrorism at a lower level of concern?

What I say on this issue is based on research by my team at SC Strategy Ltd. Terror groups have made efforts to use the Covid-19 global crisis to their advantage, determined to try to capitalise on the new geopolitical realities. They believe that key national and international institutions will be distracted by the crisis at home; that counter-terrorism/security/military budgets will be reduced as a result of the economic consequences of the pandemic; that instability in conflict zones will continue with increasing numbers of refugees; and that unemployment and economic hardship will impact increasing numbers of potentially vulnerable people across the world. In addition, the lockdowns that have been imposed in many countries may have helped terror groups recruit and radicalise new individuals. ISIL attacks in Iraq and Syria have been increasing throughout 2020. Beyond the Middle East, attacks in Mozambique and the Philippines show the group's geographic expansion; and attacks in Afghanistan suggest the group will look to capitalise on the US withdrawal. A few examples are:

- 6 March 2020: ISIL claimed an attack on a ceremony in Kabul where at least 32 people were killed and 81 wounded when gunmen opened fire.
- 11 March: 18 rockets hit Camp Taji base in Iraq, killing a British medical technician and two Americans and injuring 14 more. The US believe the attack was carried out by Kataib Hezbollah (Iranian-backed).
- 25 March: ISIL claimed an attack on a Sikh religious complex in Kabul where at least 25 people were killed by a lone ISIL gunman.

- 4 April: Two people were killed and five wounded in a knife attack in Romans-Sur-Isere, SE France. When the man was arrested, he was found by police 'on his knees on the pavement praying in Arabic'.
- 15 April: Germany arrested four men, originally from Tajikistan, who were believed to be plotting attacks on US air force bases in Germany. They were also suspected of carrying out surveillance of critics of Islam, targeting them for future assassination. The suspects had already procured firearms and ammunition. They are believed to have sworn allegiance to ISIL in early 2019 and have contacts with high-ranking figures from the group in Syria and Afghanistan.

I turn now from those bare facts to the impact of Covid-19 on radicalisation and terrorism

Radicalisation

On 22nd April 2020, UK counter-terrorism police warned that the impact of Covid-19 and social isolation could make some vulnerable people more susceptible to radicalisation and other forms of grooming, for example, as young people spend more unsupervised time online. Chief Superintendent Adams (National Coordinator for Prevent) said: 'isolation may exacerbate grievances that make people more vulnerable to radicalisation – such as financial insecurity or social alienation.' This view is shared by the General Director of the French General Directorate for Internal Security, Nicolas Lerner, who argued that confinement can accelerate extremist behaviours when aggravated by other emotional factors.

On the other hand, *The Guardian* reported on 22nd April: 'referrals to Prevent are down by more than 50% since the lockdown started on 23 March, according to official figures yet to be made public.' According to Pool Re, the reserve reinsurer of terrorism related risks, the Covid-19 lockdown has reduced attacks in the short term, because it inhibits terrorists from moving about in public and preparing for their attacks. However, terrorist propaganda, especially connected to the far-right, has increased during this time. Research by Moonshot CVE, a respected and specialist CVE technology adviser, has found that online engagement with extremist far right wing content increased

by an average of 13% immediately following the introduction of social distancing and other lockdown measures in the US; and, after 10 days of lockdown, engagement rose to a 21% increase on pre-lockdown levels. Other research suggests an increase in Islamist extremist online activity, with a rise reported on ISIL-related or inspired material.

Propaganda

Terrorist propaganda now is focusing on conspiracy theories connected to Covid-19 and this has already inspired plots and attacks. ISIL and Al Qaeda have taken different approaches in their attempts to take advantage of the pandemic; however, both groups define Covid-19 as a result of God's wrath and call for Western countries to turn to Islam in response.

ISIL in its *Al-Naba* edition of 19th March explicitly called on fighters to carry out attacks while their opponents were vulnerable as a result of the pandemic and 'security and medical institutions have reached the limits of their capacity in some areas'. The publication also stated that ISIL should take maximum advantage of the fact that international and national security systems formed to combat ISIL were taking a step back due to the pandemic. ISIL have promoted the explanation that the virus is a manifestation of God's wrath, and suggested the pandemic's initial spread in China was divine punishment for China's persecution of Uighur Muslims.

Far-right groups are in on the act too, as opportunistic as any other terrorism group. They and individual right-wing extremist supporters are using the ongoing pandemic to advance their movements and ideologies. For example, they are using Covid-19 to promote conspiracy theories, target minority communities and call for extreme violence; using the pandemic to increase calls for violence; and adapting anti-semitic speech and ideas to incorporate Covid-19. According to the US Federal Protective Service, some white supremacist terror groups are plotting to carry out bioweapon attacks using the virus, e.g. leaving 'saliva on door handles' or through saliva-filled spray bottles. Just think of the Skripal/Salisbury case to assess the impact of events of that kind.

Impact of Covid-19 on counter-terrorism efforts

Pool Re argues that the severe economic consequences of Covid-19 may mean that 'funding for counterterrorism activity across government and the private sector may be scaled back in the face of massive economic pressure'. This view is shared by the International Crisis Group who warned that the pandemic threatens global solidarity in fighting extremists – 'allowing the jihadists to better prepare spectacular terror attacks'. Secretary-General Antonio Guterres said to the UNSC on 9th April 2020: 'the threat of terrorism remains alive. Terrorist groups may see a window of opportunity to strike while the attention of most governments is turned towards the pandemic.' Guterres also commented on the potential for terrorists to use biochemical weapons: 'the weaknesses and lack of preparedness exposed by this pandemic provide a window onto how a bioterrorist attack might unfold – and may increase its risks. Non-state groups could gain access to virulent strains that could pose similar devastation to societies around the globe.'

I can provide much more evidence and argument to support my considered advice that Covid-19 threatens the international solidarity and cooperation that has been crucial to fighting ISIL and Al-Qaeda.

So should Covid-19 affect empirical policy decisions and practice in relation to countering violent extremism? And where should we go from here?

The short answer is that it would in my view be negligent to lower our guard against terrorism. During the course of my interrupted Prevent Review, in which I was deeply occupied from August 2019–February 2020, I considered various themes. To do so, I and my very proficient support team conducted 55 meetings and engagement events with a total of 476 people. This was made up of: 39 one to one meetings with me; eight one to one meetings with other members of the team; six listening and engagement events (Scotland, Leeds, Newcastle, Manchester, Tower Hamlets, Luton); and two visits to European partners (Denmark and Germany), as well as attendance at other events to listen to views of those interested in or affected by Prevent.

I issued a 'Call for Evidence'. Over 340 submissions were received in response. It contained an indicative questionnaire highlighting key issues. The number of responses per question was analysed, together

with a summary of the roles and experience of respondents. Work was in progress to tabulate and analyse the responses, with a view to follow-up of those that seemed to me to be of the greatest materiality. In addition, some bespoke research was provided to assist the Review – for example, research into student attitudes by the Hillary Rodham Clinton School of Law at Swansea University. This provided a valuable body of evidence underpinning my conclusions.

I also commissioned some systems mapping. The Cabinet Office's Policy Lab had conducted a considerable amount of work on converting into a report the output from a systems mapping workshop with national Prevent representatives. This was later to include ethnographic work with people with lived experience of Prevent.

I also commissioned an academic literature review. An expert team produced a draft report setting out some of the academic literature on Prevent. Academic focus has largely been around the concepts surrounding Prevent including radicalisation and risk factors. This provided useful insight. That said, I have developed real concern about the quality and even availability of genuine and empirical academic analysis of Prevent. Some academics interested in the field despite threadbare research are opponents of the policy before they write, some viscerally so, an attitude that sits uncomfortably alongside what I heard of positive practical experience of Prevent programmes. Everything those work streams provided remains valid. Covid-19 undermines none of it.

I now turn to my own conclusions. They are based on considerable research and evidence – though I remain open minded to further evidence if it appears.

Should there be a Prevent programme or something like it at all?

There are strong and articulate voices wholly opposed to Prevent. One of those voices was the claimant in the judicial review that resulted in the whole process of review being delayed and disrupted. The grounds of opposition can be summarised briefly:

- Prevent is racist, in the sense that it discriminates against Muslims and the communities to which they belong.
- Prevent is a means of securitisation, and of spying by the authorities

in a way that would not normally be allowed and offends human rights values.

- Prevent fails to deliver a coherent programme, and at the same time stigmatises large numbers of innocent people, including children, by accusing or even merely suspecting them of being potential terrorists.

I reject those complaints. There is clear evidence that, whatever the weaknesses of Prevent, the idea and the programme manifestly work to the benefit of many individuals and communities. As some Prevent providers, including some notable community based Muslims, insisted to me, Prevent works because it does what it says on the tin. It prevents especially young men and women from becoming terrorists or terrorist sympathisers. The same group told me that they were proud to tell their community that is what they are doing and found strong support.

There are some excellent examples of Prevent and its results. One exemplar is Kikit, run from the Birmingham area and now working in several other parts of the country. Kikit was started and is run by Muslims, some with lived experience of the issues. Their success has been remarkable. Another of many examples is the organisation and running of Prevent in Leicester, where it has been contracted out by the council (Prevent day to day management generally is the responsibility of councils) to a well respected local charity. This has been a signal success, and one of its managers has been seconded to the Home Office as a key adviser in consequence.

However, significantly less successful have been the programmes run in prisons. Some have produced beneficial results. As the current Independent Reviewer of Terrorism Legislation, the excellent Jonathan Hall QC, has said recently, there are some individuals who will never respond to desistance and disengagement programmes and the like. We must accept that and tackle that issue through proportionate legal and management remedies. What are not acceptable are poorly conceived programmes in the prisons, run with little review, analysis or quality control, in impossible conditions.

The case of Usman Khan, the Fishmongers' Hall attacker, is instructive as an example. He was a supposed 'graduate' of a successful programme, accepted as such by experts of good will. However, wholly credible evidence provided to me (and immediately conveyed to the Home Office) reveals: (i) Many prison staff with everyday access to him did not believe in the slightest that he had been reformed at all. (ii) Prison staff

were inadequately supported to deal with such cases. (I understand that the Lord Chancellor is concerned about this and is taking appropriate steps.) (iii) There was insufficient consultation with such staff. (iv) There was little quality control of the programme meetings in the prison. (v) Friday prayers were an unruly event – with the radicalised running their own meeting within a meeting with impunity. (vi) Of course unapproved, Sharia 'courts' were being run within the prison, with penalties being administered including flogging.

Clearly any such situation is unacceptable. As to remedies, one of the potential actions may be to separate serving terrorist prisoners from others, some of whom may well become involved through the combination of being impressionable and bored. Above all, there should be a far more structured, collegiate, and scrutinised system for prison countering violent extremism programmes.

Another important instrument would be the effective re-introduction (whatever name is used) of Control Orders or strengthening of the mis-named Terrorism Prevention and Investigation Measures (TPIMs). I attended some meetings of the Control Orders Review Group in the Home Office between 2005 and 2011 and visited controlees to assess the effects of the orders. They were upheld by the judiciary, sometimes subject to variations. They were proportionate. Usman Khan, on release, if properly assessed, would have been an obvious candidate for a Control Order. In my view their removal was a mistaken decision by the Coalition Government early in its term of office, against some well-founded advice. As an option available to the over-burdened Parole Board, their reintroduction would be justified and beneficial.

I know, and have been reminded by Jonathan Hall, that licence conditions can do almost everything a TPIM can. He has recommended some additional powers of search for offenders on licence. However, my view is that a reviewable executive power to impose a Control Order or strengthened TPIM would enhance the protection of the public in such cases.

Is there adequate national structure and oversight of Prevent?

How effective is the current structure and oversight for Prevent? This includes scrutiny of local, regional and national structures; links within and across government departments; the role of Prevent co-ordinators

and existing governance, scrutiny and accountability mechanisms. In my view there are some remediable issues, and remediated they must be for the necessary national structure to work. They include:

- Resolving afresh where responsibility for Prevent strategy, oversight, policy and delivery respectively should sit (eg in the Home Office, or elsewhere in or out of government).
- National, regional and local governance of Prevent, to make the system suitably scrutinised by, and accountable to, the public.
- Ensuring that government departments, and units within departments, work together effectively on Prevent.
- Improving work and cooperation across the Prevent system of policy officials, local authorities, police, intervention providers, and oversight bodies, in order to achieve Prevent objectives.
- Recognising Prevent as a counter-terrorism policy as opposed to a safeguarding policy.
- The creation of a permanent and functionally useful oversight function.

What about the police role?

The police are one of the bodies that can refer individuals to Prevent – as can schools, colleges and others. However, with the possible exception of Scotland, where the structures and scale are different, the involvement of the police after referral is seen as problematic. One allegation is that excessive police involvement has led to the over securitisation of Prevent.

My evidence based analysis is sympathetic to the view that, even where the police act with perfect propriety (generally the case), the perception of some important participants in the process will remain hostile to anything other than low level police involvement. I conclude that, after referral of an individual, counter-terrorism police should step back and allow only necessary interventions, by community policing, unless and until a potential risk of terrorist crime becomes evident in the Prevent process.

Has the Government given the police sufficient clarity on what their role should and should not be, and why? I think that more could be done to formulate the limits of police involvement. Also, there should be greater clarity about how the Pursue-Prevent interface operates, which

in individual cases may include carefully calculated policing decisions to refer particular suspects to Prevent for strategic purposes.

The Prevent Duty

I am unconvinced by the work to date to ensure that those who are subject to the statutory Prevent Duty, for example teachers at all levels, are provided with the level and quality of training required to fulfil what would be challenging even for those who are experts in the field. In order to have confidence that local referral and channel panel decisions (the process for referral to Prevent) are being made appropriately, consideration should be given to enhancing the amount of professional development, especially face to face training, available to those with obligations under the duty. I have undertaken the online Prevent Duty training. It is well devised, but incomplete.

Some say there should be no Prevent Duty at all. I have real doubts about the proposition held by some academics and professionals that the Prevent Duty inhibits professional judgments, not least as it can be argued strongly that it does no more than place in statutory form what is – in reality – the existing, professional duty of care incumbent on those who are subject to the duty. However, I am mindful of the conceptual concerns regarding the duty, so we could test the opposing view about the effect of the duty through a pilot in two or three priority areas of a suspension of the statutory duty.

Ownership and funding

I have heard views both in favour of retaining the name Prevent and changing it. I am not convinced that there is a clear advantage in changing the name.

Prevent policy should continue to be made and overall funding provided by the Home Office, as part of the wider CONTEST strategy, although this would need to be considered in close consultation with other government departments, particularly those dealing with communities and children. There is no doubt in my mind that the current annual funding cycle under which Prevent operates is a hindrance to good practice. It represents a barrier to meeting Prevent's long-term objectives. It causes inconsistency and decreases efficiency and commitment.

Fundamental British values

There should be an urgent review of the relevance of the British values 'agenda' in the context of preventing and countering violent extremism, which in my opinion has proved confusing and inconsistent for Prevent programme providers and subjects alike. Consideration should be given to if and how the agenda should be linked to Prevent and wider counter-extremism narratives. British values look quite different in different parts of the country, and in different communities. More broadly, the British values agenda might better be re-focused on concepts of rights and duties. It is worth asking what is the society or commonality within which diversity is to be defined, and what is the nature of the community in which legitimate diversity is to flourish? What are the rights and duties flowing from that? An expression of shared rights and duties could prove to be a sounder testbed than a muddled set of 'fundamental British values.'

Emerging thinking and tasks

It will be the task of the new Prevent Reviewer, still to be appointed, to develop robust recommendations for the future of the UK's strategy for preventing those vulnerable to being drawn into radicalisation. In progressing a revised Prevent policy, I would expect the Reviewer and the Government to consider seriously:

- The limited transparency of Prevent policy and practice, and the lack of independent oversight and continual review of Prevent implementation
- The limitations of the current annual funding cycle for achieving the long-term objectives of Prevent
- The scope for clarifying the relationship between Prevent and other strategies, particularly countering extremism and other safeguarding approaches, to increase cooperation and consistency in some local delivery areas, and tackle potential duplication in others
- There should be scope for clarifying the appropriate role for the police (both counter terrorism and non-counter terrorism) in Prevent delivery
- Questions as to how effective the Prevent Duty is in practice,

including the abilities of local practitioners making referrals, how well they are equipped to fulfil the role, and any unintended consequences of the duty
- What role – if any – should the confused and confusing concept of fundamental British values have in Prevent. Indeed, what does it mean?
- Questions regarding the implementation of Prevent in prisons and probation
- Opportunities for learning from other countries' approaches

This learning leads me to suggest that the Government considers the following as most urgent improvements:

(1) It is important that Prevent should be focused specifically and clearly on the prevention of violent extremism, giving its attention to those reasonably and empirically considered to be possible future terrorists.

(2) Consideration should be given to making Prevent policy and delivery much more transparent, including provision of details of how referrals are made, how personal information is used, and a right of redress in the case of justified concerns.

(3) Consideration should be given to placing oversight of Prevent implementation in the hands of a separate scrutiny agency or similar body, possibly called the Prevent Oversight Commission. This oversight organisation should have an independent chair, advisory group, and a permanent team with five core tasks. It should: (i) monitor the quality of Prevent processes, delivery and outcomes across the country; (ii) provide continuity in reviewing Prevent including evaluation of the effectiveness, value for public money and relevance of the strategy, and providing longer-term findings than are given at present; (iii) share learning about what works, and what does not work, in Prevent delivery; (iv) provide an avenue for receiving and resolving concerns about how Prevent is being implemented (including use of personal information); and (v) provide an annual Prevent Report to the Home Secretary, to be subject to debate in both Houses of Parliament. This organisation would need appropriate funding and powers to request national, regional and local information and to observe Prevent activity at all levels.

(4)   There should be greater co-ordination and collaboration by local partners on implementation of Prevent within regions, which where possible should correspond with the regions covered by police counter-terrorism units.

(5)   Drawing on what I saw in Scotland and Denmark and heard about from Leicester, there should be scope for greater freedom within regions and local areas for how Prevent is delivered, branded and resourced, with an ability to flex resource within the region, subject to the assurance provided by the new oversight body.

(6)   Consideration should also be given to whether existing government funding streams and decisions across Prevent and elsewhere are providing the most efficient, effective, and sustainable arrangements to achieve Prevent's objectives.

(7)   There should be a wholesale revision of the procedures, processes and assessments of prisoners serving sentences for terrorism offences, and others found to have been radicalised in prison. I believe release of such prisoners should be subject to new legal provisions designed to protect the public. The Parole Board should be involved in all such decisions, with the chair in such cases at least a Senior Circuit Judge. Parole Board hearings in such cases should be in public as far as national security permits; or at least much more transparent than at present.

Countering terrorism and de-radicalisation present huge public policy, strategic and methodological challenges. They must be met, in the public interest, to protect our polity and our society.

Barnard's Inn Hall