

# 20 Years of TACT: Justice under Threat

## Executive Summary

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- Over the last 20 years since the introduction of the Terrorism Act 2000 (TACT), the British counter-terrorism (CT) regime has expanded to historically unprecedented levels.
- Successive, almost annual reviews of legislation within a racist, fear-based environment have resulted in a near-limitless policing apparatus, and - perhaps most troublingly - a two-tier justice system that undermines democratic governance.
- Only 11.6% (548) of 'terror arrests' have resulted in terrorist convictions since the TACT statistics were recorded<sup>1</sup>.

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

- Terror arrests, especially raids, often attract media attention and serve as a visible indicator that 'something is being done'.  
But these statistics show that the reality away from the headlines often falls short of the impression created by them.
- As of March 2020, 77% of individuals in prison custody for terror offences are Muslim.

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

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

This is something we are seeing with recent laws such as the *Terrorist Offenders (Restriction of Early Release) Act 2020*, and the *Counter-terrorism and Sentencing*

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<sup>1</sup> Statistics used are drawn from the Home Office-published *Operation of Police Powers under the Terrorism Act 2000, year ending March 2020*, which as of writing are the latest statistics

*Bill*<sup>23</sup> currently under consideration - which herald a punitive turn that favours keeping individuals trapped in a cycle of prison and surveillance indefinitely.

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

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

- Prosecution of "reckless" or otherwise misguided behaviour - that do not require proof of intent - have become the baseline for CT convictions.

These in turn are based upon politicised interpretations of statements and discriminatory conceptions of Islamic 'ideology', as the wider counter-terrorism architecture is chipping away at a core pillar of due process, and resulting in unsafe convictions.

- As such, these sections of the TACT, as well as the ever-expanding web of policies that funnel individuals into the web of counter-terrorism and into this pre-criminal space, are the focus of this report.
- We reveal an increasing trend of pre-criminal convictions within a context of discriminatory and securitised policing and a deeply toxic political environment.

The report comprises statistical and academic analysis, as well as documented evidence of the human impact of these policies.

- The powers of the CT apparatus - down to the very definition of "terrorism" used in law - are politicised, not neutral.
- The powerful proscription regime for banning 'terrorist' organisations has served as a tool of foreign policy, allowing the British government to use its laws to support its allies abroad to settle their internal disputes.
- Introduced a mere year after the Macpherson Inquiry's seminal judgement of institutional racism in the police and two years after the *Human Rights Act 1998* was passed, TACT helped give state racism a new lease of life, with the widespread criminalisation of Muslims and/or foreign nationals by CT policing.

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<sup>2</sup> CAGE (2020). *New CT Bill Imperilling the Rule of Law: CAGE*. <https://www.cage.ngo/new-ct-bill-imperilling-the-rule-of-law-cage>

<sup>3</sup> Counter-Terrorism and Sentencing Bill 2019-21. Available at <https://services.parliament.uk/bills/2019-21/counterterrorismandsentencing.html>

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

Moves towards routinely arming police have been made off the back of the 'terror threat' in recent years<sup>45</sup> for example, while shoot-to-kill practices have increasingly been deployed against terror suspects in recent years.

- The use of secret evidence, the closed processes of the SIAC (*Special Immigration Appeals Commission*) Courts, and continual rafts of CT legislation that have expanded PREVENT and bolstered policies such as Schedule 7, should have seen the judiciary challenge the executive.
- However, due to a highly profitable counter-terrorism lobby deeply embedded in government, and a complicit media, even the courts are at times deferential in the face of the "justifications" presented for this corrosive undermining of the rule of law.
- With each conviction for a pre-crime offence, the CT regime is able to tout its ongoing 'success', and bargain for more funding and power, while ordinary people are presented with a false "choice" to acquiesce to wholesale securitisation and surveillance in every sphere of life, and a new "normal".

Rather than a cycle of piecemeal reforms or calls for a 'human rights compliant' CT policy, this calls for wholesale, broad-based organising against the architecture of counter-terrorism itself.

- Our calls are made more urgent by a wider context where CT has negated the small gains made under multiculturalism and are shunting us towards more stridently nationalistic and assimilationist social policy.

In doing so, it is both facilitating and excusing the current right-wing political lurch on our streets and in government.

- The report ends with a series of recommendations based on three core actions - **Revoke, Repair, and Re-evaluate** - which have at their core the dismantling of the counter-terrorism sector, as starting points.

This should be followed by a deep shift in policy and a reorientation of government, so that it places at its centre people, over policing – and the report directs towards the first steps to get us there.

- **Recommendations:**

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<sup>4</sup> The Police Federation (2017). *Increased support for routing arming of police officers*. <https://www.polfed.org/surrey/news/2017/increased-support-for-routing-arming-of-police-officers>

<sup>5</sup> Carr H. (2017). *Sky poll: Most Britons want police to be armed*. Sky News. <https://news.sky.com/story/sky-poll-three-in-four-support-arming-uk-police-after-terror-attacks-10905554>

## **Revoke**

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

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

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

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

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

## **Repair**

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

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

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

Too often measures by the government to engage Muslim communities in particular are done through the lens of engaging an at-risk demographic, or to prevent them from falling to 'extremism' - which only serves to compound the initial alienation<sup>6</sup>.

The precise terms of such a commission should be developed alongside those affected

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<sup>6</sup> Meghji A. (2017). *The latest inspiring Tory report on Muslims says we deserve attention because it can stop us becoming terrorists*. The Independent. <https://www.independent.co.uk/voices/muslim-potential-report-islam-britain-dominic-grieve-islamophobia-terrorism-a7820851.html>

communities, but steps towards reparative justice must concretely affirm the value and importance of engaging them on their own terms, rather than through a securitised lens.

### **Re-evaluate**

*i) Adopt CAGE's 8-point plan for healthy, safe societies<sup>7</sup>*

*ii) Conduct a 'people's inquiry' towards building social security not 'national security'*

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

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

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<sup>7</sup> Scrap PREVENT

Abandon the frameworks underpinning PREVENT

Clean money: Restore social spending without strings

Secure an ethical foreign policy

Stop managing social issues through security measures

Reinstate a society where civil rights can be exercised

Decouple welfare and safeguarding from counter-terrorism

Repeal counter-terror laws instituted since 2000

<sup>8</sup> Hooper, S. (2020). *'End Prevent': UK government faces new calls to drop counter-terrorism strategy*. Middle East Eye. <https://www.middleeasteye.net/news/end-prevent-uk-government-faces-new-calls-drop-counter-terrorism-strategy>