
COUNTER-TERRORISM IN THE UNITED KINGDOM: SUSTAINABLE MEASURE
OR VIOLATION OF HUMAN RIGHTS

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Abstract. Terrorism has been one of the most prominent issues in the last three decades. Since 2001 and the attacks on September 11, terrorism has gained a global impact. Terrorism today threatens the safety of individuals more than ever. In order to combat terrorism, countries around the world have adopted various counter-terrorism strategies. The United Kingdom is one such country. Through the analysis of the United Kingdom's counter-terrorism strategy, its laws and decisions from both domestic and international courts, the authors of this article aim to determine whether counter-terrorism is a sustainable measure or a violation of human rights in the United Kingdom.

Keywords: The United Kingdom; terrorism; counter-terrorism; human rights; violation; sustainable measure

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1. Introduction

The emergence of new, especially asymmetric security threats and their proliferation following the fundamental changes in the worldwide security environment at the end of the second and the beginning of the third millennium significantly shaped the view on ensuring security (Ivančík, Nečas, 2017; Kordík, Kurilovská, 2017; Šišulák, 2017; Prause et al., 2019). As terrorism is one of the greatest asymmetric threats in the 21st century, most countries across the world adopt or have already adopted some form of counter-terrorism measures. The aim of counter-terrorism is to ensure the safety of individuals, in that regard. However, the question remains at what cost do they enforce those measures. Terrorism is defined by fear. As Walter Laqueur remarks, terrorism is the „use of violence and/or the threat of violence“ (Laqueur, 1999., 6). Ivančík adds that terrorism is a politically motivated act of violence by certain groups or individuals in order to spread fear. Fear spreads when people perceive that their safety is threatened. Therefore it is the duty of the governments to provide security to its citizens. Siniša Tatalović states that the survival of the country and its society is the primary goal of every policy of every government (Tatalović, 2006.) Security, as Tvaronavičienė remarks, “is a form of protection for structures and processes that provide or improve security as a condition” (Lankauskienė and Tvaronavičienė, 2012., 288.). However, under the disguise of security, governments can also impose laws and restrictions that

threaten the liberty of its citizens which can be an even greater threat. In those cases, structures and processes, which are controlled by the government, endanger the safety of certain groups or individuals within a society. According to Laqueur, state terrorism is far more dangerous than non-state terrorism, since “terrorist acts that have been committed by police states and tyrannical government have generally, had a thousand times more victims and have caused a thousand times more misery than any acts of individual terrorism together“ (Lequeur, 1987., 146). After the September 11 attacks, counter-terrorism policies have been the subject of many debates around the scientific community, simply because of their potential infringement on basic human rights, which are guaranteed by international laws established by the United Nations.

This paper focuses on the scientific question if counter-terrorism of the United Kingdom (UK), in its current form, is a sustainable measure in a modern democratic society which ensures human rights and the rule of law? By examining documents, legislation, scientific studies, policies, and political remarks, the authors will argue that United Kingdom’s fight against terrorism has left consequences on pillars of democracy, such as preservation of human rights, transparency of government policies and fairness towards all people in the UK. In the first part of the paper, the theories of terrorism and democracy will be examined for the purpose of showing how counter-terrorism can impact democratic principles and affect the liberties of individuals and groups. The second part will focus on the UK’s laws and policies to combat terrorism and the increasing power of government at the expense of democratic freedoms. With this paper, the authors will try to prove that counter-terrorism can leave undesired consequences on democratic societies on the example of the United Kingdom. If terrorism is an act that inspires fear, then governments must be careful in their dealings with it, so they don’t resort to nondemocratic measures and threaten the same liberties that the terrorists aim to.

2. (Counter)Terrorism – a threat to human rights in the context of human security

Terrorism has many definitions. Schmid and Jongman’s (2005.), research has shown that there are 109 definitions of terrorism in the scientific literature. Wilkinson (1974.) provides one definition of terrorism and claims that terrorism can be described as the use of violence or the threat of violence in favor of achieving political change. Bilandžić (2010.) also adds that terrorism, as a political concept, can serve to understand terrorist goals, motive, and intentions, because today, terrorism is one of the most dangerous political and security issue of the modern world. The phenomena of terrorism is not a new concept, since some forms of terrorism have been present almost throughout the whole history. As remarked by Bilandžić (2010.,59-60) the roots of terrorism can be traced back to the first century. There were a number of groups which committed terroristic attacks, such as the radical Jewish patriots who were known as „zealots“, or the „assassins“, an extremist group which advocated for a version of pure Islam. Today, terrorism is linked to violent acts mainly committed by extreme religious groups. However, in the political discourse, terrorism was first used to describe state terrorism which manifested itself as The Jacobin dictatorship during the Reign of Terror in France in the very late 18th century (Primorac 2002. 60., Marić, 2012.). In the middle of the 19th century, terrorism has gained a non-state or „anti-state“ characteristic which mainly remained in the political discourse until today. One of the key differences in today’s non-state and state terrorism can be pointed out in their objectives. Non-state terrorism targets the government of a country or a society for the purpose to turn their own citizens against them and weaken democracy. State terrorism tries to establish control over their own citizens with the intention of remaining in power. Primorac remarks that unlike non-state terrorism which thrives on media coverage, state terrorism functions under the guise of secrecy (cited in Roško, 2018).

In an attempt to precisely define who or which group has terroristic remarks the General Assembly of United Nations (UN) had numerous tries in the 1990s with the purpose of reaching a consensus among the member states. In Resolution 49/60 known as *Declaration on Measures to Eliminate International Terrorism* (1994) and in the *International Convention for Suppression of the Financing of Terrorism* (1999), the United Nations wanted to clearly state which acts are considered as terrorism and how to successfully deal with the threat of modern terrorism. In the last 30 years more than dozens of documents from the UN have sought to combat terrorism.

However, at that time, the member states had more pressing concerns. On September 11 of 2001, following the attacks on the United States of America, terrorism became the primary concern of the member states. The United Nations Security Council did not wait long. On September 28, the Security Council adopted unanimously *Resolution 1373*, a counter-terrorism measure in order to effectively combat terrorism. *Resolution 1373* obliged every member state to align their national laws and rectify numerous international documents against terrorism. Counter-terrorism Committee was formed as a supervisory body with the aim of ensuring that states fulfill their obligations under the Resolution (*Security Council Resolution 1373*, 2004.). After several years and numerous terrorist attacks, the Security Council remarked that terrorism has to be redefined again to include kidnappings and similar manifestations of terrorism. In the new Resolution 1566 (2004.), terrorism now included taking hostages and broadened which groups were blacklisted as terrorist groups (*Security Council Resolution 1566*, 2004.). One year later, right after the London bombings and under the strong support of Blair's government, the Security Council adopted Resolution 1624, which condemned the encouragement to commit terrorist acts and glorification of terroristic acts (*Security Council Resolution 1624*, 2005.). In 2006., The United Nations General Assembly on a strategy to enhance counter-terrorism measures. *The UN Global Counter-Terrorism Strategy* allowed states to define or redefine their counter-terrorism measures in order to combat new threats. The term „counter-terrorism“ has many meanings as it describes various areas of activity. Simply put counter-terrorism, or anti-terrorism, includes governmental (and international) policies and strategies, law enforcement, and in some cases military in an effort to effectively combat terrorism. Aside from the UN, many regional international organizations also sought to fight terrorism. For example, The Council of Europe supported the UN actions against terrorism, in adopting *Guidelines of the Committee of Ministers of the Council of Europe on Human Rights and the Fight Against Terrorism* in 2002. These guidelines allowed certain derogations from human rights. In 2005., after *Resolution 1624* came into effect, Council of Europe yet again agreed with the UN and brought forth *Convention on the Prevention of Terrorism* that criminalized public provocation to commit „terrorist offenses“. (*Convention on the Prevention of Terrorism*, 2005).

Each and every one of these documents and treaties sought to protect human beings from the dangers of terrorism.

As national security was the concern of the 20. century (Lippman, W., 1943., Tatalović, 2006.), now human security was the problem of the 21. century. Human security is a relatively new concept that was first introduced on the global scale in the United Nations Development Programme's *Human Development Report* of 1994. Malik (2015.) states that because of the impact of globalization and the liberalization of the global economy, new insecurities are emerging around the world. As a consequence of various processes, human security extended itself into areas such as human rights, development, poverty alleviation and the combating of disease (Malik, 2015., 60). The above-mentioned threats to human life had been categorized into two components of human security: „freedom from fear“ and „freedom from want“. The concepts of „freedom from fear“, stands for protecting the people from violent threats and conflicts such as poverty or war. While, the concept of „freedom from want“ emphasizes protecting the people from sudden and global threats, i.e. natural disasters, diseases, hunger. The approach of „Freedom from fear“ scholars mainly fights for sustainable development and achieving lasting security policies (Human Development Report, 1994.). Malik (2015., 62) concludes that the UN's vision of Human Security goes well beyond the threats of militarism and embraces human right and the development of societies. Human rights are, therefore, necessary for the purpose of sustaining the safety of individuals.

The basis of human rights can be traced back to *Magna Carta Libertatum* (1215) and the *Habeas Corpus Act* (1679). *Magna Carta Libertatum* was one of the first documents to limit the absolute power of a king and give some form of protection to the king's subjects. Rights granted by the Magna Carta can still be found in English law and its unwritten constitution. *Habeas Corpus Act* builds upon the rights granted by Magna Carta, and also included the right to extended legal protection, thus preventing unlawful arrests, arrests without a court order and harassment during an investigation. *Habeas Corpus Act* is also included in the English law. In the modern world, the need for defining and protecting human rights has been sought after the horrors of World War II. Following the United Nations Charter (1945), the United Nations General Assembly adopted the *Universal Declaration of Human Rights* on 10 December 1948. *Universal Declaration of Human Rights* has 30 articles that

protect human rights. From the right to liberty, life, therefore, the prohibition of slavery, to the right of freedom of thought, and the social or cultural rights. The Council of Europe took a step further in protecting human rights and implemented the *European Convention on Human Rights* (1950) that allowed citizens to present their problems within to the European Court of Human Rights, after exhausting all legal means in their own countries. During the Cold War era, the United Nations sought to define and protect different segments of human rights. It is with that effort that civil and political rights were protected under *International Covenant on Civil and Political Rights* (1966), and the economic, social and cultural rights were protected under *International Covenant on Economic, Social and Cultural Rights* (1966). After the rise of the Amnesty International Reports about torture from the governments around the world (Lippman, M., 1994.), the United Nations General Assembly adopted *The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984.) as a measure to effectively prevent torture in the future. According to Landman (2013.), under the international laws, governments today, must not only protect human rights but also need to prevent the violation of human rights from any individuals or groups in their respected societies.

3. Sustainability of the United Kingdom's counter-terrorism measures in regard to human rights

The UK has had a long history of terrorist attacks on its territory, from religious extremists in the so-called Gunpowder plot conspiracy in 1605. to all branches of the Irish Republican Army (IRA) in the 20th century. Until the September 11 attacks, the UK's counter-terrorism policy was focused on combating domestic terrorist groups, such as IRA. As mentioned above, one of the branches of the IRA, called Provisional Irish Republican Army or PIRA (Wilkinson, 1986.) conducted a series of multiple terrorist attacks from 1968 until 1998. This time period was called the Northern Ireland conflict or „The Troubles“ and represented over 30 years of conflict between PIRA and the British government. During this period the British government implemented numerous laws and measures, through so-called Emergency Powers, for the purpose of dealing with PIRA. Kent Roach (2011.) states that these emergency measures and laws lead to formal derogations from the Habeus Corpus Act and the *European Convention on Human Rights* (ECHR) in Northern Ireland and England. In this fashion, the UK suspended some of the fundamental human rights of those who were suspected of committing terrorist acts. According to Dyer and Bowcott, suspects (of terrorist acts) had to present their cases to the European Court of Human Rights with the intention that the British government infringed on their rights (cited in Roško, 2018.). After the end of the conflict with PIRA and the Good Friday Agreement (Wilford, 2001), the UK wanted to expand upon the rights of individuals and redefine terrorism to accommodate to terrorism's global impact. With the *Human Rights Act 1998* (HRA) the UK gave „domestic effect“ to the rights guaranteed under the ECHR (Fenwick and Phillipson, 2012., 484). Courts in the UK could now also express their concern if a piece of legislation isn't in full compatibility with the rights under ECHR. Although the courts could not stop the government from implementing such legislation, they could, however, advise the government not to do it (Demirsu, 2017.). Now that certain human rights have been established more firmly, the UK Parliament passed a new law against terrorism, named the *Terrorism Act 2000*. The goal of *Terrorism Act 2000* was „to replace all existing counter-terror legislation that had been passed as a result of the conflict in Northern Ireland with a coherent law which covered the whole UK“ (Moran, 2013., 67). *Terrorism Act 2000* defines terrorism as a threat of action where it:

- a) involves serious violence against a person,
- b) involves serious damage to property,
- c) endangers a person's life, other than that of the person committing the action,
- d) creates a serious risk to the health or safety of the public or a section of the public, or
- e) is designed seriously to interfere with or seriously to disrupt an electronic system (*Terrorism Act 2000*)

Additionally, terrorism is also interpreted as „the use or threat to influence the government or to intimidate the public or a section of the public, and the use or threat is made for the purpose of advancing a political, religious or ideological cause“ (*Terrorism Act 2000*). Ian Cram asserts that the new Act and its ideological aspect/ clause easily allow the government to target companies who do research on live animals, while abortion clinics can now be threatened with charges for committing terrorism (Cram, 2006., 339). Roach perceives that the most dangerous part of the *Terrorism Act 2000* was section 44, where police forces were granted the power to stop and search an individual with no probable cause required (Roach, 2011.). Furthermore, Ipek Demirsu

warns that the most alarming consequence of Terrorism Act 2000 is „the securitization of dissent or protest, as these areas of political life are deemed possible sites that might harbor elements of threat to national security“ (Dermisu, 2017.,76). The right of freedom of speech, hence the right to protest, is a crucial part of the political engagement that has now been marginalized by the *Terrorism Act 2000*, turning protest into potential criminal acts. Clive Walker adds that the right to protest is a vital part of democracies and that „given the dependence of democracies upon the mobilization of the masses, both at political and practical levels, care must be taken to avoid alienating the public by counter-terrorism measures that appear disproportionate of senseless“ (Walker, 1151., 2006.).

Consequently, *Terrorism Act 2000* and its broad definition of terrorism has steered the UK one step closer to nondemocratic practices of dealing with protest and freedom of speech. The continuation of such practices continued into the future. Confirmation of the impact that *Terrorism Act 2000* had on private life of individuals came in 2010 when the European Court on Human Rights, in the resulting decision in case of *Gillan and Quinton v United Kingdom*, found that sections 44 – 47 were in „clear interference with the right to respect for private life“ (quoted in Fenwick and Phillipson, 2012., 502.). In February 2019, the European Court of Human Rights ruled in another case that that *Terrorism Act 2000* intrudes upon the privacy of citizens. In *Beghal v. the United Kingdom*, ruled that certain powers of authorities granted by the Terrorism Act 2000 violate Article 8 (right to privacy and family life) of the ECHR.

Aside from the *Terrorism Act 2000*, the British government also passed *Regulation of Investigatory Powers Act* (RIPA), thus allowing the police and security agencies the ability to collect an extensive amount of e-mails, phone calls and internet searches from UK citizens. Jon Moran warns that the authorization to collect such data can be authorized from any senior police officer or any public officer, thus the protection of privacy is merely left upon the wishes of an officer without any oversight (cited in Roško, 2018.). United Kingdom's second major legislation regarding global terrorism came after the September 11 attacks, when prime minister Tony Blair took further steps to ensure that the UK had the right safeguards against terrorist acts. With the new *Anti-terrorism, Crime and Security Act 2001* (ATCSA) the British government built upon *Terrorism Act 2000* and expanded the list of criminal offenses that can be tied to terrorism. ACTSA followed the Security Council's Resolution 1373 and together with targeting terrorism financing, allowed the Treasury to seize foreign assets, granted police and intelligence agencies access to secret tax information, provided the power to retain (communication) data, criminalized withholding information and expanded police powers in investigations (Roach, 2011.) ACTSA also allowed the expansion of the video surveillance system throughout the UK with CCTV-a cameras. Thus, the right to privacy and family life under Article 8 of ECHR was impossible to protect, since aside from the government, any individual could install CCTV cameras on their property. By 2013, the number of CCTV-a cameras was 5,9 million or one camera on ever 11 citizens of the UK. (cited in Roško, 2018.). Among the multitude of new measures of ACTSA, the most controversial one was the new power of the Home Secretary, who could now order indeterminate detention of noncitizens suspected in terrorism, specifically noncitizens who couldn't be deported because of the threat of torture or death (Roach, 2011.). Those individuals who are suspect of terrorism, and are detained indefinitely, could appeal their case to the special court named Special Immigration Appeals Commission (SIAC). Wagstaff (2014.) adds that detainees did get special lawyers assigned to their cases, but they couldn't be of much help since they weren't given permission to see the materials against their clients. In 2004, the House of Lords held that the indefinite imprisonment without charge or deportation of noncitizens was in breach of the *Human Rights Act* 1998, thus prompting the Government to change and repeal Part 4 of ACTSA. (Dyer, White and Travis, 2004.) Aside from breaching the *Human Rights Act*, ACTSA also breached Article 5 of ECHR (the right to liberty and security) since the government did not provide sufficient evidence for detaining persons indefinitely. This was best presented in the case of several detainees who were held in the infamous Belmarsh prison in London (Roach, 2011.). The Government defended its actions regarding these measures as protecting the lives of UK citizens, which are guaranteed under Article 2 of ECHR, as well as the British law. Nonetheless, the failure of balancing security and human rights weighed heavily on Blair's government. Prime Minister Blair didn't want a constitutional crisis and proposed *The Prevention of Terrorism Act 2005*, which would correct questionable measures of ACTSA and would legitimately derogate from the rights guaranteed by the ECHR (Roško, 2018.) The UK parliament passed *The Prevention of Terrorism Act 2005* on the 11th of March, 2005.

On the 7th of July 2005, London experienced its first Islamic terrorist attack. In a series of attacks, suicide terrorists activated explosive in the London Underground, killing 38, and wounding 700 people (Muir and Cowan, 2005.) As mentioned previously, the Security Council passed Resolution 1624 which criminalized propaganda and glorifying acts of terrorism. Simultaneously, the UK Parliament passed the *Terrorism Act 2006*. *Terrorism Act 2006* criminalized acts that „glorifies, exalts or celebrates the commission... of acts of terrorism“, as well as any form of „encouragement of terrorism and the dissemination of terrorist publication“ (*Terrorism Act 2006*). This was not the first time the UK decided to limit freedom of speech, as Demirsu mentions, „the British government has a tendency toward limiting freedom of expression and association in relation to terrorism, as in the case of broadcast bans against the IRA. (Demirsu, 82., 2017.). A few months after *Terrorism Act 2006* came into effect, the Government presented the public its counter-terrorism strategy known as CONTEST. Although CONTEST was first developed in 2003, it has only been presented to the general public after the attacks on 7th of July. CONTEST was divided into four principal strands:

- PREVENT - prevent terrorism by dealing with the radicalization of individuals
- PURSUE - pursue terrorist and those who finance and/or sponsor them
- PROTECT - protect the public, key national services and the interests of the UK overseas
- PREPARE - prepare for the consequences of terrorist attacks (Countering International Terrorism: The United Kingdom's Strategy, 2006)

With both CONTEST and *Terrorism Act 2006*, the UK set harsher regulation on freedom of speech and expression. *Terrorism Act 2006* left the possibility for the British government to, under the disguise of new counter-terrorism measures, ban or censure media outlets and journalists who criticized Blair's new law. Aside from the journalists, the academic society had to be careful as well. A student of Nottingham University by the name of Ritwaan Sabir was researching al-Qaida tactics he downloaded from the US government website and was held for six days in custody (Curtis and Hodgson, 2008.). Aside from securitizing and limiting the flow of information, *Terrorism Act 2006* also extended police powers to hold terrorist suspects to 28 days without charge, amended and increased the powers under RIPA and granted the Home Secretary power to ban groups that glorify terrorism. (*Terrorism Act 2006*). *Terrorism Act 2006*, was a direct response to the attacks on July 2005, as such, it is an Act that was rushed through the Parliament and cared little for protecting human rights, in this instance, the right of freedom of speech. In 2008, even the United Nations Human Rights Committee expressed their concern about the provision that criminalized glorification of terrorism, stating that the goal of some statements may not be to encourage terrorist acts, but „can be understood by some members of the public as an encouragement to commit such acts“ (cited in Demirsu, 85., 2017.). The statement of the United Nations Human Rights Committee shows that the measures implemented in *Terrorism Act 2006* were not sustainable in regard to further combat terrorism since it infringed upon one of the cornerstones of democracy. With yet another defeat in counter-terrorism laws and continuous low approval ratings, Tony Blair resigned in 2007 as Prime Minister of UK and was replaced by Gordon Brown. Brown's government did not wait long to try and reform laws concerning measures against terrorism. In the new *Counter – terrorism Act 2008* some of the most important changes were the proposals to:

- a) increase the pre-charge detention (of terrorist suspects) to 42 days in special circumstances
- b) enable constables (police officers) to take fingerprints and DNA samples from individuals who are subject to control orders for the purpose of using them in terrorism investigations.
- c) enables post-charge questioning of terrorist suspects and the drawing of adverse inferences from a refusal to silence
- d) extend sentences for offenders convicted of offenses with a terrorist connection.
- e) criminalize the offense of eliciting or attempting to elicit information about a member of Her Majesty's forces, intelligence service or a constable (police officers) which is likely to be useful to a person committing or preparing an act of terrorism
- f) enable inquiries to be heard without a jury (*Counter-terrorism Act 2008*)

The section of *Counter-terrorism Act 2008* that increased the pre-charge detention was later modified into a temporary provision, so the Parliament can decide if it was necessary or not. This was a welcome change from the „pre-charge detention“ provisions that were in effect in the past.

While the British government has decreased certain measures it has also toughened others. For instance, section 76 of the new Act, which covered criminalize the offense of eliciting or attempting to elicit information from military, intelligence and police officers has, similar as *Terrorism Act 2006*, caused a lot of concern with the journalists and photographers. They were afraid that the new terror law would target them, since seeking information, thus facts, and asking questions was in their job description. The National Union of Journalists and the British Press Photographer's Association warned that „law would extend powers that are already being used to harass photographers and would threaten press freedom.“ (Adetunji, 2009.). The freedom of the press has become one of the key pillars that shows how much liberty and freedom can citizens enjoy in a country (Rýsová, 2015). By indirectly attacking the media and securitizing the issue of informing the public, the British government stepped on to try and minimize the damage its counter-terrorism laws have been having on protecting human and civil rights. Furthermore the right to remain silent in questioning, as well as freedom from „oppressive questioning“ was entrenched because of the provision that could enable post-charge questions if a suspect failed to mention some information that can be later used in court. Even the right to legal defense has been touched upon by the new law. Demirsu asserts that „these measures have undermined the principle of due process, as the sovereign invokes a sense of imminent threat to national security and exempts itself from scrutiny or accountability“ (Demirsu 88., 2017.). If security is at all times „under imminent threat“, then the reasoning of the British government that it's protecting the right to life while infringing other rights, is a rational explanation. Nevertheless, if a country is constantly under danger and is limiting the freedom of its citizens, it is no longer a society governed by democratic principles. Walker questions the timing of the British governments with its impactful measures since the government uses Article 2 of ECHR only when „it feels it convenient to do so.“ (Walker, 71., 2013.). The rationalization of the government that it is only doing what must be done to preserve the lives of its citizens has become the norm when asked if it's laws impact human rights. Demirsu puts it simply, and warns: „...the provisions it (Counter-terrorism 2008) has introduced are a normalization of exceptional measures, fortified by the idea that security is constantly under threat. (Demirsu, 88., 2017.). Counter-terrorism Act 2008 didn't accomplish anything relevant to restore some protection of human rights. On the contrary, it strengthened previous measures to limit freedom of speech and expression.

After the general elections in 2010, Leader of the Conservative party, David Cameron formed the Coalition government with Nick Clegg, the leader of the Liberal Democrats. Under the new Coalition government, the balance between security and democratic rights was sought after. One could argue that the new government, led by Cameron, wanted to distance themselves from the previous government and its laws, led by the Labour party. However, the sudden eagerness to restore some rights can also be described as a direct consequence of various court rulings, among others, the case of *Gillan and Quinton v United Kingdom* adjudicated by the European Court of Human Rights. *Terrorism and Investigations Measures Act 2011* tried to reestablish the legal balance between security and freedom, whilst creating a new strategy to protect the public from the threat of terrorism. The Act established *Terrorism Prevention and Investigation Measures*, or TPIMs, new measures that replaced the controversial control orders. TPIMs could only be applied to a suspect on the period of 2 years, except if the suspect is deemed a threat to national security, then they could be prolonged. TPIMs needed to combat terrorism while preserving the rights guaranteed under ECHR. Fenwick and Phillipson (510., 2012.) argued that TPIMs were a „light touch“ version of control orders. Demirsu (2017.) critiqued calling them nothing more than rebranded measures that did not solve the fundamental problem of counter-terrorism legislation, the fact that suspects are treated outside regular criminal laws and can't enjoy their basic rights.

A year later, the *Protection of Freedoms Act 2012* aimed to restore some of the rights that have been under attack in the past decade. The *Protection of Freedom Act 2012* regulated the retention of biometric data such as fingerprints and DNA (DNA profiles had to be destroyed if the arrest was deemed unlawful), it also regulated the usage of surveillance and instructed the Secretary of State to bring forth a code of practice for CCTV and similar programs (Protection of Freedoms Act 2012). *Protection of Freedoms Act 2012* restored some rights to privacy (Article 8 of ECHR) with the biometric data and surveillance limitation, along with certain leniency with potential suspects of terrorism. Most notably, *Protection of Freedoms Act 2012* abolished sections 44-47 of the *Terrorism Act 2000*, the „power to stop and search“ provisions. The Act also amended RIPA to be more respectful of human rights and now required major offenses to be implemented, as for the lower offenses, it was

terminated. Furthermore, the Act also decreased the pre-charge detention (of terrorist suspects) from 28 to 14 days (Protection of Freedoms Act 2012). *Protection of Freedoms Act 2012* thus restored some enjoyment of human rights, whilst „reducing the power of the government to intervene in individuals’ private lives, as well as bringing new limits to counter-terrorism strategies.“ (Demirsu, 91., 2017.). *Protection of Freedoms Act 2012* was a first step towards a sustainable counter-terrorism policy in over a decade.

In midst of the growing threat from the war in Syria and the Islamic State of Iraq and the Levant (ISIL), the British government wanted to effectively prevent terroristic threats from reaching its borders, in conjunction with stopping potential radicalization of its citizens. In that regard, State Secretary proposed *Counter-terrorism and Security Act 2015* („CTSA“) *Counter-terrorism and Security Act 2015*:

- seizure of UK citizens’ passports at airports and border crossings;
- cancellation of the passport of UK citizens;
- preventing UK citizens from re-entering their country;
- prohibiting the entry of individuals into the UK for two years;
- further preventing the spread of the ideology of terrorist organizations, identifying “vulnerable persons” so that they are not involved in terrorist activities;
- enhanced preventive action; enhanced surveillance of communication devices (Counter-terrorism and Security Act 2015)

CTSA also contained a provision regarding the PREVENT method from the Government’s CONTEST. Section 26 of the CTSA, called the Prevent Duty, required childcare providers, schools, universities and other higher education bodies to „have due regard to the need to prevent terrorism“ (Counter-terrorism and Security Act 2015). The Prevent Duty resulted in several controversial cases, from questioning of a 14-year-old student for using the word „eco-terrorist“ when speaking about the environment (Dodd, 2015), to a postgraduate student of counter-terrorism being accused of terrorism simply for reading a book in his field of study (Ramesh and Halliday, 2015). In both cases the students were Muslims. Louise Richardson, vice-chancellor of Oxford University stated that the Prevent strategy was stopping university students from voicing their views on certain topics (Merrick, 2015.). The academic community expressed their concern, as 360 professors from various universities signed the statement saying the PREVENT strategy conceptualizes that the term radicalization, therefore extremism is „based on the unsubstantiated view that religious ideology is the primary driving factor for terrorism. Academic research suggests that social, economic and political factors, as well as social exclusion, play a more central role in driving political violence than ideology. Indeed, ideology only becomes appealing when social, economic and political grievances give it legitimacy. Therefore, addressing these issues would lessen the appeal of ideology.“ (Protecting Thought, 2015). PREVENT was another attempt of the Government to target freedom speech and expression, only this time at educational institutions. Hence, the right to freedom of thought (Article 9 of ECHR), the right to present ideas and ideological claims now falls within CTSA. The ability to study different ideologies and their impact on societies is one of the aspects of a democratic country. If the objective of the Government is to defeat terrorism and its ideology, then limiting the discourse about such ideology will have a countereffect on the ongoing struggle against terrorism. In March 2019, the Court of Appeals found that certain guidelines under PREVENT were unlawful since they were not clear in informing the universities „of their competing obligations to ensure free speech while stopping people being drawn into terrorism.“ (Gayle, 2019).

Two years after CTSA came into effect, the UK suffered its worst terrorist attacks since the London Underground attacks in 2005. On 22nd of May in 2017, a suicide bomber activated a homemade shrapnel bomb at Manchester Arena while people were leaving from a concert. More than 130 people were injured, while 23 died. This was the second attack in two months after a vehicle drove into pedestrians on Westminster Bridge in March. Following the Manchester Arena bombing, two attacks occurred in June when a van drove into pedestrians on London Bridge and another van drove into pedestrians outside a mosque in Finsbury Park. The last major attack in 2017. came in September when a bomb detonated at London’s Parsons Green tube station. Following CTSA, the British government planned to release an updated version of CONTEST, the UK’s counter-terrorism strategy in April of 2017. However, due to the terrorist attacks and the political crisis caused by the results of the United Kingdom European Union membership referendum (commonly known as the Brexit

referendum), which resulted in Theresa May being named Prime minister, the British government postponed the release of updated CONTEST. After the Manchester attacks May declared that she would fight terrorism with greater effort, announced a review of the government's approach to counter-terrorism and said that „if human rights laws stop us from doing it, we will change those laws so we can do it“ (Mason and Dodd, 2017.).

In 2018., CONTEST (Countering International Terrorism: The United Kingdom's Strategy, 2018) was updated to reflect the new determination of the British government. UK's Home Secretary Sajid Javid proposed new legislation concerning counter-terrorism called Counter-Terrorism and Border Security Bill 2018. The proposed legislation was criticized by numerous organizations and subjects, including Fionnuala Ní Aoláin, United Nations (UN) Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, professor Joe Cannataci, United Nations Special Rapporteur on the right to privacy and Harlem Désir the Organization for Security and Co-operation in Europe's (OSCE) Representative on Freedom of the Media. *Counter-Terrorism and Border Security Bill 2018* was eventually partly amended, but certain provisions regarding the freedom of expression were still a part of the legislation. The British parliament passed the Bill and it received Royal Assent on 12th of February in 2019, thus becoming *Counter-Terrorism and Border Security Act 2019*. The Act passed with a relatively small amount of concern amongst the general public, arguably due to the decision of the British citizens to leave the EU in the Brexit referendum (Janas, Kucharčík, 2017).

Counter-terrorism and Border Security Act 2019 has several provisions that have caused concern among the public, most notably the provision that makes it a criminal offense to enter or remain in a „designated area“ overseas and the provision that criminalizes the viewing of „any terrorist material“ online. (*Counter-terrorism and Border Security Act 2019*). Although, the Act accounts for special circumstances of being in a „designated area“, e.i. humanitarian workers and journalists, it still allows the Government to pressure journalists into giving up materials and sources. The provision concerning the viewing of „any terrorist material“ also made an exclusion to protect journalists and academic from prosecution. Nevertheless, the Joint Committee on Human Rights stated that the provision „is a breach of the right to receive information and risks criminalizing legitimate research and curiosity“ (cited in Dearden, 2019.). *Counter-terrorism and Border Security Act 2019* is still arguably a new piece of legislation on the ever-existing problem of terrorism, and its true impact on civil society and human rights is yet to be seen.

Conclusions

In this paper, the authors dealt with the issues of counter-terrorism legislation as a sustainable measure in regard to the protection of human rights. To that regard, the authors have established that the UK's counter-terrorism policy in the 21. century has, thus far, been intruding on some of the basic human rights, such as the right to privacy and freedom of speech and expression. Most notably, the *Terrorism Act 2000* securitized the right to freedom of speech and the right to privacy. ACTSA allowed surveillance of millions of citizens through the CCTV system, as well as the retention of an enormous amount of data containing private information about citizens. It was partly replaced by *The Prevention of Terrorism Act 2005*, which enabled derogation from certain human rights in accordance with ECHR. In continuation with the UK's counter-terrorism policy at the time, *Terrorism Act 2006* and *Counter-terrorism Act 2008* restricted the ability of the media and public to acquire information about various topics, which have been deemed as security issues. In 2010s *Terrorism and Investigations Measures Act 2011* and *Protection of Freedom Act 2012* sought to re-acquire balance between security and freedom. However, with CTSA in 2015, and the revised CONTEST strategy, the UK turned its attention on freedom of expression and thought. The PREVENT method of CONTEST targeted educational institutions and was deemed by numerous scholars as an excessive measure.

The latest counter-terrorism law, *Counter-Terrorism and Border Security Act 2019*, has yet to show its impact on human rights. In less than two decades, the British government has passed 8 laws against terrorism. The true impact on human rights in those laws has been pointed out by various committees, domestic courts and the European Court of Human Rights, primarily in the cases of *Gillan v. Quinton v. the United Kingdom* and *Beghal v. the United Kingdom*. The UK has to change the way it approaches preventing and countering terrorism, because its current strategy, hence legislation, is not compatible with the protection of human rights and in that

regard could not be considered as a sustainable measure for the future.

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