



The events of 11 September 2001 shocked the Western world, almost two decades on Europe's deadliest terror attacks hit Paris and Brussels on 13 November 2015 and 22 March 2016, respectively. **Clockwise:** Soldiers patrolling near Louvre Museum, photograph by Elena Dijour/Shutterstock. Reporters working near the Republic Square in Paris after November 13 terror attacks, photograph by Aija Lehtonen. Belgium army and police in Grand Place, photograph by CRM/Shutterstock. Istanbul Ataturk Airport attack, 29 June 2016, photograph by deepspace/Shutterstock. Flowers for the terror victims, photograph by Nazar Gonchar/Shutterstock. The front covers of the newspapers display headlines of the November 2015 terrorist attacks in Paris, photograph by Hadrian/Shutterstock.

**MAJOR KATHLEEN MCKENDRICK**

British Army  
 Course Director,  
 NATO Centre of Excellence Defence Against Terrorism

# EXAMINING THE MILITARY ROLE IN COUNTER-TERRORISM: the United Kingdom as case study

**Editor's Note:** The views expressed in this article are the author's own and do not represent those of the UK Government, Armed Forces or of the Centre of Excellence, Defence Against Terrorism.

**D**ESPITE THE traditional supposition that "any liberal democracy that uses its armed forces to combat terrorism will incur controversy both domestically and internationally,"<sup>1</sup> the use of the military in counter-terrorism roles by liberal democracies appears to be resurgent. The large scale deployment of troops on French and Belgium<sup>2</sup> soil in response to attacks by Islamist extremists in 2015 represents a domestic trend that has international antecedents. The attacks on the Pentagon and the World Trade Centre in 2001 heralded an era of expeditionary military action "beyond the bounds of recognised international humanitarian law."<sup>3</sup> Though this response, led by the United States of America, generated significant controversy at the time,<sup>4</sup> the use of military force against transnational threats has, to some extent, become accepted as necessary.<sup>5</sup>

This paper discusses the boundaries of legitimacy in the employment of military force to counter terrorism by liberal democracies.

The application of these boundaries is further explored using the United Kingdom (UK) as a case study. Having used its military at strength for a sustained time period to counter a domestic terrorist threat in Northern Ireland,<sup>6</sup> the UK government today remains vocally prepared to employ its armed forces in the conduct of the counter-terrorism.<sup>7</sup>

The UK's experience has focussed attention on the boundaries of the employment of military force in the counter-terrorist role, and has allowed them to adopt a comparatively well-developed position. This position is certainly not beyond controversy; nonetheless Aniceto Masferrer (*University of Valencia, Spain*) and Clive Walker (*University of Leeds, UK*) observe that many jurisdictions "have followed the blueprint of the UK's legal definition of terrorism and the measures built upon it."<sup>8</sup>

As terrorist threats continue to evolve in a globalised context, the military have an important and expanding role in counter-terrorism. It is impossible to successfully employ them in this role unless the scope of their

activity is limited to constitute a legitimate response for whichever state they represent. In the case of the UK, this essay concludes that it is of paramount importance that the military is employed strategically. In the contemporary context, this requires a response, which is both intelligence-led and ethical.

## Literature Review

Since the 9/11 attacks, there has been a vast increase in literature on terrorism. Within this field, the militarisation of the response to terrorism and the question over whether the means justify the ends in the war on terror have been hotly contested. Concerns over exceptional measures have undermined the campaign completely in the eyes of some, who conclude that "the position that there must be moral certitudes and universal values in this 'war' (...) provides the ideological cover for (...) instances when those certitudes and values are abrogated."<sup>9</sup> Other commentators rally against this view, mounting impassioned defences of





HMS OCEAN, docked on the river Thames at Royal Greenwich for an anti-terror exercise ahead of the Olympic Games, London, May 2012. PHOTO: DAVID BURROWS/SHUTTERSTOCK

the conduct of the "war on terror."<sup>10</sup>

Michael Ignatieff (*The Lesser Evil: Political Ethics in an Age of Terror*) charts a middle way, arguing that the nature of terrorist tactics may warrant exceptional measures, but that these must be subject to democratic checks and balances.<sup>11</sup>

Philip Bobbitt (*Terror and Consent: The Wars for the Twenty-First Century*) argues that "conditions of terror" pose existential threats to democratic "states of consent". He concludes that this threat is the result of changes to the nature of the state, which we have not yet recognised.<sup>12</sup> Audrey Kurth Cronin (*How Terrorism Ends: Understanding the Decline and Demise of Terrorist Campaigns*) is more sanguine about our ability to counter terrorism within the current strategic framework, examining how terrorist causes die out.<sup>13</sup>

Benjamin Wittes (*Law and the Long War: The Future of Justice in the Age of Terror*) discusses the two frameworks commonly held to represent different approaches to counter-terrorism; the wartime approach and the law-enforcement approach, and observes that rather

than being completely distinct, the United States of America's counter-terrorism strategy has consistently used elements of both.<sup>14</sup>

Masferrer and Walker edit an in-depth examination of the legal aspects of various states' counter-terrorism measures, describing how since 9/11, "new codes of counter-terrorism laws have constantly and often acutely challenged traditional legal concepts."<sup>15</sup>

Geraint Hughes (*The Military's Role in Counter-Terrorism: Examples and Implications for Liberal Democracies*) tackles the question of military involvement in counter-terrorism directly, describing the political, strategic and ethical challenges which arise from the use of military means to combat terror.<sup>16</sup>

In light of what is perceived as a persistent global threat,<sup>17</sup> international organisations and national governments have established new organisational structures<sup>18</sup> and published counter-terrorism policies and strategies.<sup>19</sup> The UK strategy for counter-terrorism is articulated in a cross-government departmental publication called CONTEST.<sup>20</sup> The current

version is the third published, and it is notable that the strategy has endured two changes of government since its inauguration in 2003.

## Definitions

The absence of a comprehensive definition of terrorism has been lamented for decades. Walter Laqueur described in 1986 how a research guide listed 109 definitions published between 1936 and 1981. He commented that there have been many more since and pointed out that "the U.S. Government alone has provided half a dozen, which are by no means identical."<sup>21</sup>

There has been no convergence on a definition since this observation and the number of variations has only proliferated. Of relevance are the North Atlantic Treaty Organisation (NATO) definition of terrorism as "the unlawful use or threatened use of force or violence against individuals and property in an attempt to coerce or intimidate governments or societies to achieve political, religious or ideological objectives,"<sup>22</sup> and the legal definition applied by the UK Government:



- "(1) In this act, terrorism means the use or threat of action where:
- a. the act falls within sub-section (2),
  - b. the use or threat is designed to influence the government or an international government organisation or to intimidate the public or a section of the public, and,
  - c. the use or threat is made for the purpose of advancing a political, religious, racial or ideological cause.
- (2) The action falls within this sub-section if 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 and safety of the public or a section of the public, or,
  - e. is designed seriously to interfere with or seriously disrupt an electronic system.
- (3) The use or threat of action falling within sub-section (2), which involves the use of firearms or explosives is terrorism, whether or not sub-section (1) b is satisfied."

Both these definitions (NATO and the UK Government) demonstrate the tendency of governments and international organisations to adopt broad definitions, which require judg-

ment as to the circumstances where they are applied. United Nations has been unable to define terrorism, instead using international legal instruments, which criminalise certain terrorist acts. For the purposes of this essay, Cronin's definition of terrorism as incorporating acts with the following four characteristics will be used: a fundamentally political nature, the symbolic use of violence, purposeful targeting of non-combatants and carried out by non-state actors.<sup>23</sup> Counter-terrorism describes the measures undertaken by a state to prevent or disrupt terrorism, or to mitigate its effects.

This essay considers the UK as a liberal democracy that is "a political system marked not only by free and fair elections, but also by rule of law, a separation of powers, and the protection of basic liberties of speech, assembly, religion and property."<sup>24</sup> Some of the ways these characteristics will affect the response of the state to terrorism are expounded below.

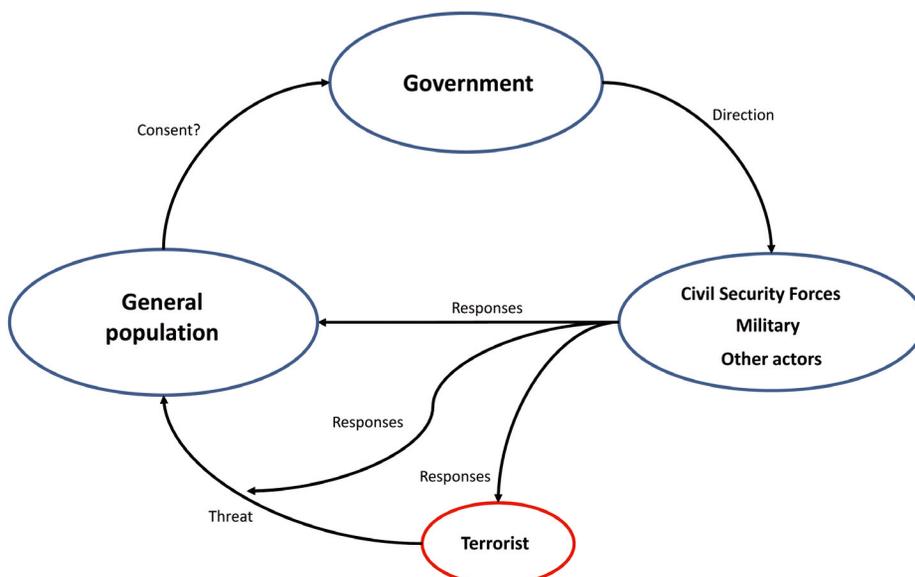
The response must be politically acceptable, which can be understood as meeting the criteria of perceived efficacy, ethical justifiability and legality.

## Legitimacy—Bounding a Legitimate Response to Terrorism in a Liberal Democracy

Democratic governments are dependent on the consent of the governed. Terrorist activities are designed to instill fear amongst the population and so erode consent.<sup>25</sup> Considering terrorism from the domestic perspective, where the terrorist threat is directed at the general public, the diagram (left) shows some of these links between the actors involved. The initial effect of terrorism may be to target the relationship between the population and the government by calling into question the latter's ability to provide security for the former. A secondary effect may be to undermine the relationship between the government and the population by provoking a response, which is considered either inadequate or unreasonably severe. The former would entail defaulting on the obligation of democratic states "to employ military means in order to protect their citizens from the threat of terrorism."<sup>26</sup> The latter might include a response which unduly curtails civil liberties.

Ignatieff describes a state response that lies between these extremes, which "serves majority interests without sacrificing the freedom and dignity of the individuals who comprise the political community to begin with."<sup>27</sup> The response must be politically acceptable, which can be understood as meeting the criteria of perceived efficacy, ethical justifiability and legality. Perceived efficacy means the response is seen as effective and commensurate with the severity of the threat. Ethical justifiability demands a balance between a consequentialist approach, where any means can be justified if the ends demand it, and deontological one, where inviolable rights of individuals must be maintained at all costs. A response which demands rights curtailment or violence

**Below:** By threatening non-combatants, terrorists seek to undermine the consent citizens award governments, on which liberal democracy depends. The way they do this is two-fold: by engendering fear in the general population or by provoking disproportionate responses.



can usually only be ethically justified on the grounds of preservation of life.<sup>28</sup> Finally, adhering to the principle of rule of law means the response should be legal, both internationally and domestically.

In the case of transnational terrorism, the threat posed by terrorists may not be levelled directly against a particular state or its population, but may still threaten the relationship between the government and the population if the government is seen to act illegitimately. In the absence of a direct threat to the public of a particular state, for example, the boundary of political acceptability might be narrowed, but, the outline constraints of efficacy, ethics and legality are still relevant. Variations on the nature of the terrorist threat may change the parameters of the response, but not the basic framework within which that response is conducted. Countering terrorism not only depends on maintaining a position that is within this framework, but on the ability to continuously and publically justify this position. This is complicated further in light of the fact that ethics and political acceptability are both contested and subjective concepts.

Finding the ethical balance of security for the majority without undue curtailment of individual liberty depends on an accurate understanding of the threat. However, this understanding is likely to be dependent on intelligence gathering, which will often be classified. Hence, the ability of the government to justify its position will be dependent on its ability to garner trust from the population.<sup>29</sup> Credibility will be improved by transparency where possible.<sup>30</sup> It is also worth noting that government credibility will be corrosively undermined by incidences where unjustifiable transgressions in ethical behaviour are revealed.

Proving when a response is effective can be equally difficult. The 2012 Olympic and Paralympic Games represented "the largest peacetime security operation in British history."<sup>31</sup> However, the apparently random nature of a terrorist threat makes it difficult to prove convincingly whether measures were effective or simply unchallenged. What is more, no matter how many acts of terrorism are prevented, the successful conduct of just one is more likely to dominate headlines. The complete eradication of risk represents an unduly stringent definition of victory. Cronin posits that this unachievable standard resulted in the failure

of United States to recognise when it had strategically defeated Al Qa'ida.<sup>32</sup> However, whilst the public perception of a response to terrorism is important, prioritising this too highly may lead to the misguided pursuit of actions which are ineffective, for the sake of being seen to react. Further, problems arise when it is considered impossible to mount an effective response within the constraints described, resulting in pressure on governments to cross ethical and legal boundaries.<sup>33</sup> Expansion of domestic law or derogation from international obligations may occur as a reaction to this.<sup>34</sup> Such exceptional measures should be temporally limited: an action that is considered acceptable in the wake of an attack may not be an acceptable long-term policy.

Terrorism does not usually pose an imminent, existential threat to a state, rather a long-term risk of eroding democratic legitimacy. Liberal democracies rely on the existence of checks and balances to counter this. Decisions made by executive leaders when an immediate reaction is required will subsequently be scrutinised by democratic institutions such as a free press and an independent judiciary. Debate, criticism and dissent over the legitimacy of a counter-terrorist response are to be expected and encouraged, as Ignatieff observes, "what is striking about democracy is the role of distrust in keeping the system honest."<sup>35</sup> Procedures must be in place which can review and adjust counter-terrorist measures in accordance with the changing situation. The UK counter-terrorism strategy articulates the need for this and reiterates a commitment to doing so.<sup>36</sup>

## The Military Role

States may employ police, paramilitaries, or even civilian organisations in counter-terrorism.<sup>37</sup> Attempts to definitively delineate between the sphere of the military and that of the civil security forces are invariably unpicked by a practical example. Controversy over the employment of the military is invariably linked with the use, or perceived use, of violence or of rights infringement. In actuality, within the parameters described above, the military or the civilian security forces may use either violent or non-violent means in the conduct of counter-terrorism. Some restrictions when employing the military arise from presenta-

tional issues. One of these is that presence of the military may be taken to represent the failure of the civil security forces. This is one reason why, in the UK domestic arena, police have primacy in the conduct of counter-terrorism.<sup>38</sup>

Other reservations over the use of the military sometimes centre over concerns of the tendency of the military to be too violent.<sup>39</sup> Recent revelations over the activities in Northern Ireland suggest that such concerns may not be entirely misplaced.<sup>40</sup> Mitigating against this impression demands a commitment to transparency where possible, as well as a reiteration of the importance of strategy behind the use of violence. If David Kilcullen is correct to characterise Islamist terrorism as part of a global insurgency,<sup>41</sup> then, in the absence of authoritative global governance, political primacy might be replaced with respect for irreducible values. Unethical conduct should be understood as strategically regressive, and will be counter-productive if it is allowed in pursuit of short-term gains.

## The Legal Framework of UK Counter-Terrorism

During the conflict in Northern Ireland a number of extraordinary judicial measures were employed to counter the terrorism threat.<sup>42</sup> When the process of "normalisation" began, the UK government replaced these measures with a series of acts that were applicable to a more general terrorist threat. The first of these was the Terrorism Act,<sup>43</sup> which defined terrorism, proscribed certain terrorist organisations and gave police certain powers in dealing with terrorist threats. Many of the measures introduced in this act and subsequent acts have proven controversial. The ability to indefinitely detain foreigners suspected of terrorism on entry to the UK, which was granted in the Anti-Terrorism Crime and Security Act,<sup>44</sup> was an example of this. This power was declared unlawful by a specially convened committee of law lords in 2004<sup>45</sup> and the relevant part of the act subsequently repealed. The most recent counter-terrorism legislation, the Counter-Terrorism and Security Act 2015,<sup>46</sup> grants powers related to the seizure of travel documents and restriction of movements and imposes a duty on certain authorities to report those they believe to be at risk of radicalisation.

Such measures have proven to be sig-



nificantly more controversial than the employment of the military in the counter-terrorism role. The construct for the military contribution to counter-terrorism is either extraterritorial, or under the auspices of Military Aid to the Civil Authorities (MACA). Provision for MACA is made under the Civil Contingencies Act.<sup>47</sup> This is usually invoked when the task at hand requires capabilities beyond those held by the police—explosive ordinance disposal being a relatively common example of this—but can also be used when the capacity of the civil authorities are overwhelmed. Northern Ireland was an example of an exceptionally extended period of MACA, albeit in the context of a low level sectarian civil war<sup>48</sup>—MACA "is provided at the specific request of the civil authorities, is subject to civil primacy and requires the authorisation of Defence Ministers."<sup>49</sup>

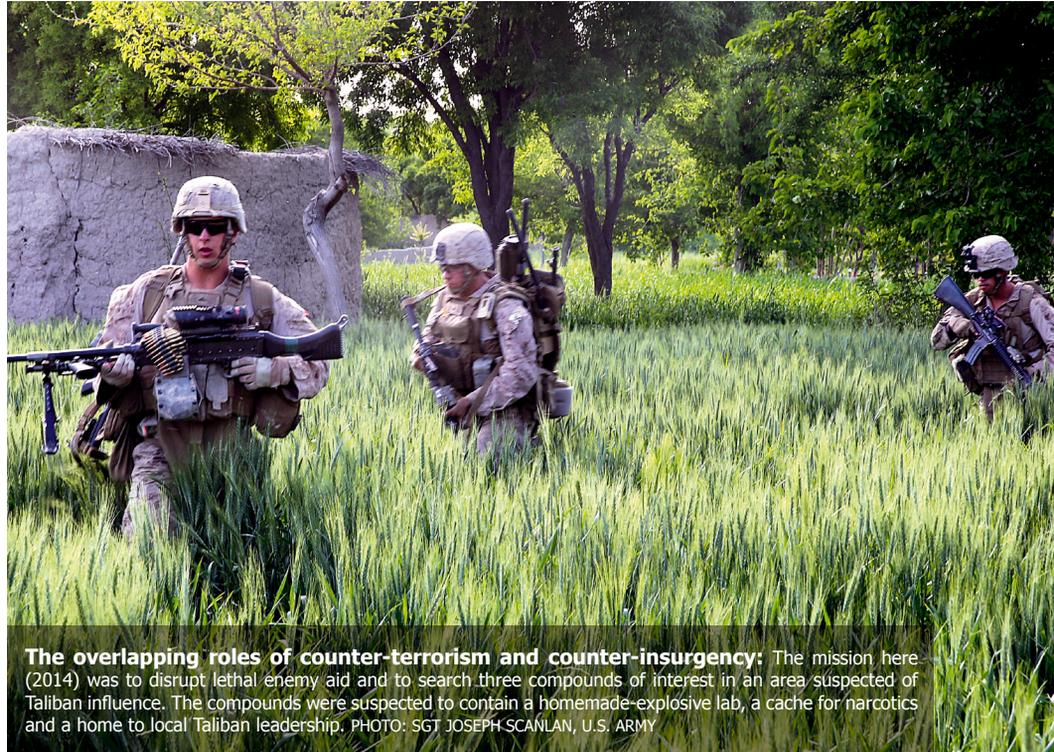
## The Military Contribution to CONTEST

As a liberal democracy, the UK is committed to countering terrorism within the parameters of legality and ethicality, specifically:

"CONTEST [the UK counter-terrorism strategy] will reflect our fundamental values and, in particular, our commitment, not only to protect the people of this country and our interests overseas but to do so in a way that is consistent with (...) our commitment to human rights and the rule of law."

The UK counter-terrorism strategy is organised around four "workstreams", all of which require a cross-governmental, multi-agency approach, including, where appropriate, the use of the military. Deciding actions at the boundaries of legitimacy is complicated, but there is a large area of activities that will be considered acceptable with little controversy. Possible military contributions to the four workstreams described in CONTEST, either domestically or internationally, are considered below:

**Pursue:** The large part of the military role in counter-terrorism is through the pursue workstream, which concerns the detection of threats and the disruption of terrorist activity. The military contribution to pursue is predominantly outside the territorial boundaries



**The overlapping roles of counter-terrorism and counter-insurgency:** The mission here (2014) was to disrupt lethal enemy aid and to search three compounds of interest in an area suspected of Taliban influence. The compounds were suspected to contain a homemade-explosive lab, a cache for narcotics and a home to local Taliban leadership. PHOTO: SGT JOSEPH SCANLAN, U.S. ARMY

of the UK. Invariably this is reliant to a large extent on some form of international co-operation. Extraterritorial activity in support of pursue may take various forms, up to and including military action against a state or non-state sponsor of terrorism. Such action may be limited to precision strikes, used by the U.S. against Libya in 1986, or may extend to regime change, for example the toppling of the Taliban in Afghanistan. Notably, the invasion of Iraq in 2003 was not justified by the UK Government as an effort to disrupt terrorism, although Iraq did later provide a theatre for counter-terrorist activities alongside counter-insurgency.

Connor O'Neill describes how in this kind of context the overlapping roles of counter-terrorism and counter-insurgency add a dimension of complexity, which require rapid transition by the military in doctrinal and operational practice.<sup>50</sup> The deployment of air power against Daesh could be characterised as the use of military force against a non-state actor supporting terrorism or a terrorist group itself. When action of this kind is used to disrupt terrorism, the military is able to make a unique contribution, which is beyond the capabilities of other government agencies. It is of paramount importance that such action is undertaken strategically,<sup>51</sup> and that it is part of

a plan directed towards a specific end-state.<sup>52</sup> In support of this, military commanders must be prepared to advise on the efficacy of force against a particular state or non-state actor. The military might also be used in the apprehension or interdiction of terrorists themselves, noting that "the essential mission of the military cannot (...) be the physical destruction of terrorist organisations, but their containment and frustration."<sup>53</sup>

Whilst some states use a policy of targeted killings of terrorist suspects, the UK extends its domestic policy of criminalisation of terrorism as far as possible into the international sphere. In this respect, the UK has maintained a distinct position from its transatlantic Allies and has been seen by some as a moderator of their militaristic response.<sup>54</sup> The use of a legal approach to counter-terrorism applies to suspects detained as part of operations in Iraq and Afghanistan, where increasing applicability of International Human Rights Law, especially the European Convention of Human Rights is being recognised.

The British Government states explicitly in CONTEST: "This document makes it clear that the government and its armed forces and intelligence agencies will not participate in, solicit, encourage or condone the use of torture



or cruel, inhumane or degrading treatment or punishment for any purpose." This commitment appears absolute, but is complicated in circumstances where procedures involve handing over detainees to local authorities of more dubious moral standing.

Given transgressions of ethical behaviour in the past, Clive Walker is right to assert that "mechanisms against abuse demand never-ending reflection and reinforcement."<sup>55</sup> This means that British authorities conducting extraterritorial detention will do so under heavy scrutiny and with increasingly complex legal obligations. Combined with the additional risk to the life of UK troops associated with mounting detention operations, it is possible that targeted killings may become a more attractive alternative to extraterritorial detention. This would represent a significant departure from current UK policy, and is highly unlikely without further developments in the international normative framework within which these killings are conducted.

Action of any nature in support of "Pursue" must be intelligence-led to be either effective or ethically justifiable. The globalisation of the terrorist threat has increased the potential sources of intelligence as well as the complexity of the intelligence picture. The UK has dealt with these demands by establishing the Joint

Terrorism Advisory Centre in 2003. This centre brings together cross-departmental expertise to analyse and process information, facilitating cross-agencies contributions to building the most comprehensive and commonly understood intelligence picture possible. This model of intelligence fusion has been widely replicated in other national governments and international organisations.

Intelligence is underpinned by an important detect function, which is equally likely to involve military input. Various defence intelligence assets deployed outside the UK provide collection capabilities. Reconnaissance aircraft supporting bombing missions in Syria are an example of this. The use of intelligence fusion means that, where it is relevant, the information collected by these assets can contribute directly to the understanding of the domestic threat in the UK.

The provision of counter-terrorism training to foreign armies also provides a partial contribution to the detect function. Not only does it allow UK presence in areas where there is suspected terrorist activity, but it fosters relationships with local security forces who may subsequently be more likely to share intelligence. Delivery of counter-terrorist training contributes further by effectively allowing distributed conduct of the pursue function. Such

operations open another political conundrum, that of association with unethical behaviour.

Armed forces may be used to contribute to the pursuit of terrorists in the domestic sphere when they have resources or capabilities beyond those of the police. Routinely, this includes a contribution to detection of terrorist threats, for example through the work conducted by the intelligence and security organisation, Government Communications Headquarters. The means employed for threat detection are not beyond controversy. Widespread collection and analysis of communications activity and in some cases privately submitted data by public authorities is considered an unjustified invasion of privacy by many.

Further, Lousie Amoore and Marieke De Goede (*Risk and the War on Terror*) describe how "risk based calculative models and practices are emerging as a key means of identifying vulnerable spaces and suspicious populations in the war on terror."<sup>56</sup> These methods identify potential terrorists before any crime is committed. Acting on these suspicions may see the liberties of a few are unfairly curtailed for the supposed security of the rest. Deciding the balance of where this activity is justified is the role of the democratic government, but if the military are practitioners of these methods it is important that they understand the context in which they

**COMBINED JOINT TASK FORCE**  
OPERATION INHERENT RESOLVE

Jan. 4, 2016

*"But this is an organization (ISIL) that's losing territory, it's losing ground, it's, I think, increasingly losing anybody's sympathy, and this again shows what an appalling organization we're up against..."*

~United Kingdom Prime Minister David Cameron

**ONE MISSION, MANY NATIONS**

A Royal Air Force Voyager KC2 refuels two RAF Tornado GR4, March 4, 2015, over Iraq. The RAF aircraft provide combat air support for the coalition against Daesh. (U.S. Air Force photo by Staff Sgt. Perry Aston)

**Left:** The United Kingdom is one of the key training partners and equippers of Iraqi Security Forces at Iraqi Army-run training facilities in Erbil, Taji, Besmaya and Al Asad. In addition, the United Kingdom is a robust aerial combat mission partner in Iraq and Syria. CJTF-OIR COALITION UNITY GRAPHIC

**About Operation Inherent Resolve:** Combined Joint Task Force–Operation INHERENT RESOLVE (CJTF–OIR) by, with and through regional partners, is to militarily defeat Da'esh in the Combined Joint Operations Area in order to enable whole-of-coalition governmental actions to increase regional stability.

**MORE TO EXPLORE**  
@ [www.inherentresolve.mil/](http://www.inherentresolve.mil/)



are employed. In terms of disrupting terrorist activity, the domestic response to terrorism in the UK is characterised by criminalisation. This is reflected in a preference for detention and trial of terrorist suspects in all circumstances, with exception made solely in the presence of an imminent threat to life. This is predominantly the domain of the police. The military, who only have civilian powers of arrest, are rarely engaged in the apprehension of terrorist suspects.<sup>57</sup>

**Prevent:** Currently, there is little deliberate employment of the military in support of preventing terrorism domestically, however it is worth noting that the military can provide an alternative for disaffected youths that may otherwise turn to violence.<sup>58</sup> As the reintegration of returning jihadists into society becomes an increasingly pressing issue, the involvement of the military in de-radicalisation programmes, such as that employed by Pakistan, may be worth investigating, although the efficacy of such schemes is questionable.<sup>59</sup>

Overseas, the military contribution to building stability is held to help prevent the root causes of terrorism. This contribution is most commonly realised through working with host nation security forces to undertake defence capacity building. Commitment to this task requires patience with incremental gains which are difficult to quantify, especially with regards to their direct effect on terrorism.

**Protect:** The military may be employed in the protection of civilians or infrastructure from terrorist attack either domestically or overseas. As in all areas, military employment in the domestic context will be predominantly contingent on the lack of police capability.<sup>60</sup> The military may also be used for deterrence, arguably effectively so at the 2012 Olympic games. Less well planned deployments include the conduct of armoured patrols at Heathrow Airport in 2003.<sup>61</sup> Using the military on the streets of the UK must strike the balance between reassurance and unnerving militarisation.

**Prepare:** The military have an essential part to play in the preparation of their part in an effective cross-governmental response to a major incident. This includes interoperability with civilian security forces and readiness of troops to contribute to UK's resilience. The conduct of this preparation itself makes a contribution,

albeit an unquantifiable one, to the deterrence of terrorist attacks. Wyn Bowen discusses how the use of chemical, biological or nuclear weapons to conduct mass casualty terrorism may be deterred if an effective and immediate response guarantees that the outcomes of such an attack would be denied.<sup>62</sup> The UK military participates in national and regional exercises conducted by the civilian authorities to practice this response.<sup>63</sup>

The provision of support to the civil authorities in the event of a terrorist incident is probably one of the least controversial aspects of the military role in counter-terrorism, but an effective response to such an incident is a pressing demand on an effective government. Philip Bobbitt asserts that this fact "will have important implications for the force structures and training of the Armed Forces of the democracies."<sup>64</sup> Indeed, in the UK, the likelihood of deploying armed military troops domestically has vastly increased. A report detailing a plan for the deployment of 5,000 armed troops in the event of a major terrorist incident<sup>65</sup> preceded a consolidated commitment to place 10,000 troops at readiness for this purpose in the Strategic Defence and Security Review.<sup>66</sup>

Training in the protection of civil liberties for soldiers and a plan for relief of such troops and their return to normal duties are key concerns when military forces are used in this role. A recent commitment to train 600 extra police firearms officers highlights continued investment in police capability and may allay fears that the military will be used in less than exceptional circumstances.<sup>67</sup>

## Conclusion

In the context of a quantitative increase in globalisation, the military has an important and expanding role to play in counter-terrorism. In a liberal democracy, the dependence of the government on the consent of the people means that the response to terrorism must fulfil the three-fold criteria of being politically acceptable, ethical and legal. Governments are conscious of the implications of militarising the response to "terror." This could be seen to bestow legitimacy on terrorists by awarding them combatant rather than criminal status; the overt presence of the military may cause panic at the severity of the threat; or the military may be perceived as predisposed

to nihilistic violence. Cognisant of these factors, the military contribution to counter-terrorism above all needs to be strategic. In the contemporary context, this means it must be intelligence-led and ethical. Presentation is important, so the state should strive to be as transparent as possible in its response to terror generally, and especially in its employment of the military.

There is also good reason for the military role to continue to be confined to MACA in the domestic arena. Much discussion over counter-terrorism focuses on the elements of the response, which involve the most difficult decisions over exceptional behaviour, many of which arise in the pursuit of terrorists or terrorist suspects. Counter-terrorism is in large part a battle of persuasion, where governments might "feign control over the uncontrollable"<sup>68</sup> in order to free their populations from fear.

The goal of completely eradicating the risk of a terrorist attack may be unachievable, and it is a dangerous mistake to consider the pursuit of this end to justify all means. Accepting this awards precedence to ethical conduct across the spectrum of activity, and encourages due focus on the important, but often sidelined, aspects of the military role in counter-terrorism, such as the preparation for the response to an attack. ✦



[www.coedat.nato.int](http://www.coedat.nato.int)

---

MAJ K M MCKENDRICK, British Army, is a Royal Electrical and Mechanical Engineers Officer. She has served at regimental duty and brigade staff appointments, as well as completing an in-service Masters in International Relations at the London School of Economics and Political Science.

Having recently completed Intermediate Staff and Command training, she is currently serving as a Course Director at the NATO Centre of Excellence, Defence Against Terrorism in Ankara.

## END NOTES

- 1 Geraint Hughes, *The Military's Role in Counter-Terrorism: Examples and Implications for Liberal Democracies* (The Strategic Studies Institute, 2011) xiii.
- 2 Amounting to a total of 10,000 soldiers in France as reported by Peter Walker in the Guardian on 12 January 2015, <http://www.theguardian.com/world/2015/jan/12/paris-attacks-france-guard-vulnerable-locations-hayat-boumeddiene>, and 300 in Belgium, as reported by the BBC on 17 January 2015, <http://www.bbc.com/news/world-europe-30860064>.
- 3 Aniceto Masferrer and Clive Walker, *Counter-Terrorism, Human Rights and Rule of Law: Crossing Boundaries in Defence of the State*. (Cheltenham: Edward Elgar Publishing Ltd, 2013) p. 5.
- 4 See, for example, Jason Ralph, *America's War on Terror* (Oxford: Oxford University Press, 2013).
- 5 Abraham Sofaer discusses this in "The Best Defence? Preventative Force and International Security" in: *Foreign Affairs* January/February 2010, p. 101.
- 6 1969-2007 at a peak strength of 27,000 troops, described by Vincent Kearney writing for the BBC in February 2013, available on-line at [http://www.bbc.co.uk/history/topics/troubles\\_security\\_forces](http://www.bbc.co.uk/history/topics/troubles_security_forces).
- 7 Articulated as part of the defence aim in "The Defence Plan 2010-2014" available online at <https://www.gov.uk/government/publications/defence-plan-2010-2014>.
- 8 Masferrer and Walker, *Rule of Law* p. 5.
- 9 Louise Amoore and Marieke De Goede, *Risk and the War on Terror* (Abingdon: Routledge, 2008) p. 3.
- 10 Jean Bethke Elshstain, *Just War Against Terror* (Cambridge: Basic Books, 2003).
- 11 Michael Ignatieff, *The Lesser Evil* (Edinburgh: Edinburgh University Press, 2005).
- 12 Phillip Bobbitt, *Terror and Consent* (London: Penguin Books, 2008).
- 13 Audrey Cronin, *How Terrorism Ends* (Woodstock: Princeton University Press, 2009)
- 14 Benjamin Wittes, *Law and the Long War* (New York: Penguin Press, 2008)
- 15 Masferrer and Walker, *Rule of Law* p. 5.
- 16 Hughes, *Military's Role*.
- 17 Described as such on the NATO website counter-terroring-terrorism topic page [http://www.nato.int/cps/en/natohq/topics\\_77646.htm](http://www.nato.int/cps/en/natohq/topics_77646.htm).
- 18 In the case of the European Union, for example, the Office of the Counter-Terrorism Co-ordinator was established by the European Council in 2004, and the European Counter-Terrorist Centre by the European Commission in 2015.
- 19 For example, United Nations Resolution A/Res/60/228 The United Nations Global Counter-Terrorism Strategy, adopted 8 September 2006, and NATO Counter-Terrorism Policy Guidelines available on-line at [http://www.nato.int/cps/en/natohq/official\\_texts\\_87905.htm?selectedLocale=en](http://www.nato.int/cps/en/natohq/official_texts_87905.htm?selectedLocale=en).
- 20 HM Government, *CONTEST: The United Kingdom's Strategy for Countering Terrorism* (London: The Stationary Office 2011).
- 21 Walter Laqueur "Reflections on Terrorism" in; *Foreign Affairs* 65 (1986), p.88.
- 22 NATO, *Allied Administrative Publication NATO Glossary of Terms and Definitions*, available on-line at <http://nso.nato.int/nso/zPublic/ap/aap6/AAP-6.pdf>.
- 23 Cronin, *Terrorism*, p. 7.
- 24 Fareed Zakaria "The Rise of Illiberal Democracy" in: *Foreign Affairs* 76 (1997), p. 22.
- 25 Bobbitt, *Terror and Consent*.
- 26 Hughes, *Military's Role*, xiii.
- 27 *Ibid.*, 5.
- 28 Outside these circumstances, meeting terrorism with a violent response might be seen to confer an undue degree of legitimacy on the terrorists.
- 29 Use of an independent body to assess threat levels is an example of democratic check or balance that might improve this public trust. The UK threat level, for example, is set by the Joint Terrorism Advisory Committee (JTAC) based on the product of multi-agency intelligence gathering.
- 30 Cressida Dick, *Counter-Terrorism Policing, Past, Present and Future* speaking at RUSI, 23 June 2014.
- 31 *Ibid.*
- 32 Audrey Cronin, "The Evolution of Counter-Terrorism: Will Tactics Trump Strategy?" in: *International Affairs*, 86 (2010) 846.
- 33 Masferrer and Walker, *Rule of Law*, p. 15.
- 34 *Ibid*, 15.
- 35 Michael Ignatieff, *Lesser Evil*, p. 11.
- 36 Para 1.18.
- 37 Hughes, *Military's role*, p. 14.
- 38 The military contribution to counter-terrorism is either extra-territorial or under the auspices of Military Aid to the Civil Authorities. Full detail of the legal construct of these operations is given detailed later in this essay.
- 39 Ignatieff, *Lesser Evil*, 112.
- 40 BBC, *Undercover Soldiers Killed Unarmed Civilians in Belfast* 21 November 2013. Available at <http://www.bbc.co.uk/news/uk-24987465>.
- 41 David Kilcullen, *Counter-Insurgency* (Oxford: Oxford University Press 2010).
- 42 Jessie Blackburn *Anti-Terrorism Law and Normalising Northern Ireland* (Abingdon: Routledge 2015) details these in full.
- 43 The National Archives, *The Terrorism Act 2000* available on-line at <http://www.legislation.gov.uk/ukpga/2000/11/contents>.
- 44 The National Archives, *The Anti-Terrorism Crime and Security Act 2001* available on-line at <http://www.legislation.gov.uk/ukpga/2001/24/contents/enacted>.
- 45 The Guardian *Anti-Terrorism Crime and Security Act 2001*, 19 January 2009 Available at <http://www.theguardian.com/commentisfree/libertycentral/2009/jan/13/anti-terrorism-act>.
- 46 The National Archives, *The Counter-Terrorism and Security Act 2015*, available at <http://www.legislation.gov.uk/ukpga/2015/6/contents/enacted>.
- 47 The National Archives *Civil Contingencies Act 2004*, available at: <http://www.legislation.gov.uk/ukpga/2004/36/contents>.
- 48 Hughes, *Military's Role*, p. 39.
- 49 The Development, Concepts and Doctrine Centre *Joint Doctrine Publication 02 the Defence Contribution to Resilience* available on-line at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/28469/JDP02Ed2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/28469/JDP02Ed2.pdf).
- 50 Connor O'Neill "Terrorism, Insurgency and the Military Response: From South Armagh to Fallujah" in: *RUSI Journal* 49 (2005) 22-26.
- 51 Hughes, *Military's Role*, p. 122.
- 52 Cronin, *Terrorism Ends*, p. 197.
- 53 Hughes, *Military's Role*, p. 132.
- 54 This stance is exemplified in the application of the terminology of counterinsurgency to Iraq and Afghanistan, and that of criminality in a domestic forum.
- 55 Clive Walker, "Detention in Extremis: Transferring Lessons from Counter-Terrorism Policing to Military Detentions" in: Aniceto Masferrer and Clive Walker, *Counter-Terrorism, Human Rights and Rule of Law: Crossing boundaries in defence of the state*. (Cheltenham: Edward Elgar Publishing Ltd, 2013) p. 291.
- 56 Amoore, Louise and De Goede, Marieke. *Risk and the War on Terror*. (Abingdon: Routledge, 2008) p.3.
- 57 Northern Ireland remains a prominent, recent exception to this where additional powers were granted to the military under an amendment made in 1972 to the 1922 Special Powers Act.
- 58 Hanif Kadir, *Prevention in Practice on the Home Front In: The British Army 2014* (London: Newsdesk Media 2014).

- 59 Jason Burke "Fighting Terrorism: Do de-radicalisation camps really work?" *The Guardian*, 9 June 2013.
- 60 For example, in hostage rescue, CBRN (Chemical, Biological, Radiological and Nuclear) defence and explosive ordinance disposal.
- 61 BBC, 11 February 2003, available at <http://news.bbc.co.uk/1/hi/uk/2749659.stm>
- 62 Wyn Bowen "Deterrence and Asymmetry: Non-state Actors and Mass Casualty Terrorism" in: *Contemporary Security Policy Vol 25: 1 2004*, p. 57.
- 63 House of Commons Defence Committee *The Defence Contribution to UK National Security and Resilience, Sixth Report of Session 2008-2009*. Available on-line at <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmdfence/121/121.pdf>.
- 64 Bobbitt, *Terror and Consent*, p. 3.
- 65 Reported by Emily Gosden in the *Telegraph* on 26 July 2015. Available on-line at: <http://www.telegraph.co.uk/news/uknews/defence/11764301/Secret-plan-to-deploy-5000-soldiers-on-UK-streets-in-wake-of-major-terror-attacks.html>.
- 66 HM Government *The Strategic Defence and Security Review 2015* available on-line at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/478933/52309\\_Cm\\_9161\\_NSS\\_SD\\_Review\\_web\\_only.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/478933/52309_Cm_9161_NSS_SD_Review_web_only.pdf).
- 67 Reported by the BBC on 14 January 2016, available on-line at <http://www.bbc.com/news/uk-35308467>.
- 68 Ulrick Beck, *Risk Society: Towards a New Modernity* (London: Sage Publication 1992) 4.
- Actors and Mass Casualty Terrorism" in: *Contemporary Security Policy Vol 25: 1, 2004*, p.55-70.
- Burke, Jason "Fighting Terrorism: Do de-radicalisation camps really work?" *The Guardian*, 9 June 2013 available at <http://www.theguardian.com/world/2013/jun/09/terrorism-do-deradicalisation-camps-work>. [accessed 21 March 2016].
- Cronin, Audrey. *How Terrorism Ends*. Woodstock: Princeton University Press, 2009.
- Cronin, Audrey "The Evolution of Counter-Terrorism: Will Tactics Trump Strategy?," in: *International Affairs*, 86, 2010, 837-856.
- Dick, Cressida *Counter-Terrorism Policing, Past, Present and Future* speaking at RUSI, 23 June 2014, available online at <https://www.rusi.org/events/ref:E53A2DB82C7CD5#.VE3yr7hFDIU> [accessed 27 October 2014].
- The Development, Concepts and Doctrine Centre *Joint Doctrine Publication 02 The Defence Contribution to Resilience* available on-line at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/28469/JDP02Ed2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/28469/JDP02Ed2.pdf) [accessed 23 Mar 2016].
- Elshtain, Jean Bethke. *Just War Against Terror* Cambridge: Basic Books, 2003.
- HM Government, *CONTEST: The United Kingdom's Strategy for Countering Terrorism*. 2011 available at <https://www.gov.uk/government/collections/contest> [accessed 24 March 2016].
- HM Government, *The Strategic Defence and Security Review 2015* available on-line at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/478933/52309\\_Cm\\_9161\\_NSS\\_SD\\_Review\\_web\\_only.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/478933/52309_Cm_9161_NSS_SD_Review_web_only.pdf) [accessed 24 March 2016].
- House of Commons Defence Committee: *The Defence Contribution to UK National Security and Resilience. Sixth Report of Session 2008-2009* London: The Stationary Office 2009.
- Hughes, Geraint. *The Military's role in Counter-Terrorism: Examples and implications for liberal democracies* The Strategic Studies Institute, 2011.
- Ignatieff, Michael. *The Lesser Evil*. Edinburgh: Edinburgh University Press, 2005.
- Kadir, Hanif. "Prevention in Practice on the Home Front" in: *The British Army 2014* London: Newsdesk Media, 2014.
- Kearney, Vincent. *More information about: Security Forces in the Troubles*, available on-line at [http://www.bbc.co.uk/history/topics/troubles\\_security\\_forces](http://www.bbc.co.uk/history/topics/troubles_security_forces) [accessed 24 March 2016].
- Kilcullen, David *Counterinsurgency* Oxford: Oxford University Press 2010.
- Laqueur, Walter "Reflections on Terrorism" in: *Foreign Affairs Vol 65*, 1986, pp. 85-93.
- Masferrer, Aniceto and Walker, Clive. *Counter-Terrorism, Human Rights and Rule of Law: Crossing boundaries in defence of the state*. Cheltenham: Edward Elgar Publishing Ltd, 2013.
- Ministry of Defence. *The Defence Plan 2010-2014*. 2010 available on-line at <https://www.gov.uk/government/publications/defence-plan-2010-2014> [accessed 24 March 2016].
- The National Archives, *The Terrorism Act 2000* available on-line at <http://www.legislation.gov.uk/ukpga/2000/11/contents> [accessed 24 March 2016].
- The National Archives, *The Civil Contingencies Act 2004* available on-line at <http://www.legislation.gov.uk/ukpga/2004/36/contents>. [accessed 24 March 2016].
- The National Archives, *The Anti-Terrorism Crime and Security Act 2001* available on-line at <http://www.legislation.gov.uk/ukpga/2001/24/contents/enacted> [accessed 24 Mar 2016].
- The National Archives, *The Counter-Terrorism and Security Act 2015* available on-line at <http://www.legislation.gov.uk/ukpga/2015/6/contents/enacted> [accessed 24 March 2016].
- North Atlantic Treaty Organization, *Allied Administrative Publication 6 NATO Glossary of Terms and Definitions*, available on-line at <http://nso.nato.int/nso/zPublic/ap/aap6/AAP-6.pdf> [accessed 24 March 2016].
- North Atlantic Treaty Organization, *Topics: Countering Terrorism* available on-line at [http://www.nato.int/cps/en/natohq/topics\\_77646.htm](http://www.nato.int/cps/en/natohq/topics_77646.htm) [accessed 24 March 2016].
- O'Neill, Connor "Terrorism, Insurgency and the Military Response: From South Armagh to Fallujah." in: *RUSI Journal* 49, 2005, 22-26.
- Ralph, Jason *America's War on Terror*. Oxford: Oxford University Press, 2013.
- Sofaer, Abraham "The Best Defence? Preventative Force and International Security" in: *Foreign Affairs* January/February 2010, p. 109-118.
- United Nations, *A/Res/60/228 The United Nations Global Counter-Terrorism Strategy*, 8 September 2006, available on-line at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/60/228](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/60/228) [accessed 24 March 2016].
- Walker, Clive "Detention in Extremis: Transferring Lessons from Counter-Terrorism Policing to Military Detentions" in: *Counter-Terrorism, Human Rights and Rule of Law: Crossing boundaries in defence of the state*. Cheltenham: Edward Elgar Publishing Ltd.
- Walker, Peter "Paris attacks: 10,000 troops deployed as France hunts for accomplices" *The Guardian*, 12 January 2015 available at <http://www.theguardian.com/world/2015/jan/12/paris-attacks-france-guard-vulnerable-locations-hayat-boumedienne> [accessed 21 March 16].
- Wittes, Benjamin *Law and the Long War: The Future of Justice in the Age of Terror* New York: Penguin Press, 2008.
- Zakaria, Fareed "The Rise of Illiberal Democracy" in: *Foreign Affairs* 76:6 (1997), 23-43.

## BIBLIOGRAPHY

- Amoore, Louise and De Goede, Marieke. *Risk and The War on Terror*. Abingdon: Routledge, 2008.
- BBC, *Belgium Deploys Troops following anti-terror raids* 17 January 2015. Available at <http://www.bbc.com/news/world-europe-30860064> [accessed 21 March 2016].
- BBC, *Undercover Soldiers Killed Unarmed Civilians in Belfast*, 21 November 2013. Available at <http://www.bbc.co.uk/news/uk-24987465> [accessed 21 March 2016].
- Beck, Ulrick. *Risk Society: Towards a new modernity* London: Sage Publication 1992.
- Blackbourn *Jessie Anti-Terrorism Law and Normalising Northern Ireland* Abingdon: Routledge 2015.
- Bobbitt, Phillip. *Terror and Consent*. London: Penguin Books, 2008.
- Bowen, Wyn "Deterrence and Asymmetry: Non-state