



SELINUS UNIVERSITY
OF SCIENCES AND LITERATURE

**REOFFENDING IN TERRORISTS POST 9/11:
A COMPARATIVE STUDY OF THE ASSESSMENT
OF RISK AND DANGEROUSNESS
IN TERROR OFFENDERS**

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A DISSERTATION

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DECLARATION

This dissertation is submitted for the degree of Doctor of Philosophy in Criminology at Silenus University. This study is my original research work. All peer-reviewed journal articles and academic books cited in this dissertation are referenced in keeping with APA guidelines. “I do hereby attest that I am the sole author of this PhD Dissertation and that its contents are only the result of my readings and research.”

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Chapter 1

Introduction and Background

Terrorism is not a new concept and has been around in some form or another for most of recorded history (Laqueur, 1987). Within the UK there has been a long history of countering terrorism especially in the nineteenth and twentieth centuries with the ongoing Irish problem and after the Second World War with the breakup of the British Empire. The British experience with terrorism has continued into the twenty-first century with the focus since the 9/11 attacks in the US being on combatting jihadist terrorism.

The London Bridge terror attack in 2019 and the Streatham attack a few months later in 2020 were both carried out by terrorist offenders who were released early from their sentences. The reaction of the government has been the introduction of legislation to prevent the automatic early release of terror offenders. The Terrorist Offenders (Restriction of Early Release) Bill 2019-2020 affects approximately thirty offenders who had already been sentenced when it was introduced. The Terrorist Offenders (Restriction of Early Release) Bill and the Counter Terrorism and Sentencing Bill (HL Bill 129-EL) will result in convicted terrorists not being released until having served at least two thirds of their sentence and having been assessed by the parole board, they would thus face harsher terms than other offenders in the general prison population who are released automatically at the midpoint of their sentence due to the nature of their crimes. The reason for these harsher measures appears to be the belief that when terrorists reoffend it will likely take the form of mass casualty incidents. This belief that reoffending will result in mass casualties means that terrorists are viewed as being far more dangerous and therefore a greater risk than other offenders.

There are two main views on the recidivism of terrorists. The first is that they are less or no more likely than other criminals to reoffend with the second being that they are far more likely to reoffend as they are extremists and therefore less likely than other offenders to be reformed or rehabilitated into society. This second view would appear to go against the anecdotal evidence in the UK that terrorists released post 9/11 after serving their sentence appear to reoffend at a much lower rate than other types of criminals. There is a lack of research specifically on why the reoffending of released terrorists in the UK appears to be so low and why this would be. Research from some other countries appears to confirm the anecdotal evidence from the UK that convicted terrorists are less likely to reoffend than other offenders (Altier et al., 2019, Hasisi et al., 2019, Hodwitz, 2019).

Politicians and the media to a large extent influence how the threat from terrorism is perceived by the public and also the terminology used by them to describe terrorists can affect whether groups are seen as terrorists or not (Laqueur, 1987). A further influence on this in the modern era of the internet is the less regulated space of social media and the affect that views and 'news' which are reported in this sphere can affect public perception of the problem. A further problem is the saturation reporting of the media which can give the impression that terror attacks happen more frequently than they actually do. In addition to this is the way different events are reported and the terminology used in describing them. There are various terms used to describe terrorists such as gunmen, guerrillas, commandos, and partisans in the media and sometimes by politicians and they are sometimes used interchangeably within a single article (Laqueur, 1987). This difference in terminology can affect the perception of the aims and dangerousness of the groups and what kind of risk they pose.

In the period since the 9/11 attacks in 2001 there have been 878 terrorism convictions in the UK of whom 223 are still in prison (Allen and Kirk-Wade, 2020). In a study by Silke (2014) of released UK offenders only one had been reconvicted and this was for a non-terror offence.

Current research shows that in general the lifespan of a terrorist group is very short at only one year (Horgan, 2009) and that most terrorists will desist from violent action at some point (Bjorgo, 2008). Studies from out with the UK also show a level of reoffending which is far lower than that for purely criminal offences (Altier et al., 2019; Hasisi et al., 2019; Hodwitz, 2019). The risk posed by most released terrorists would therefore appear to be very low. The majority appear to choose to desist from further involvement with terrorist activities and it is seen that most will choose eventually to desist from involvement for various reasons even without being caught and convicted (Horgan, 2014).

The level of involvement in terrorism is also not clearly defined and this can affect the perception of those convicted of terrorism offences. Those who carry out the attacks whether stabbing, shooting, or bombing make up only a small number of those involved with terror organisations (Horgan, 2009). For every violent terrorist there are several others who carry out the less dramatic functions of raising funds, intelligence gathering, logistical support, and publicity and distribution of literature (Horgan, 2009). The roles within the terror organisations are not static and an individual may carry out a number of them during their time within the organisation, they may progress to violent action and then withdraw to non-violent activities and some may never progress to violent actions (Horgan, 2009). The reasons why individuals desist from involvement with the organisations are also numerous and not well understood (Horgan, 2014).

Thesis Statement

This thesis will argue that the UK Government reaction to the attacks on London Bridge (2019) and Streatham (2020) by released terror offenders with increased punitiveness for all terror offenders is not justified by the level of recidivism within this group. The research will

focus on the risk assessment of these offenders and the measures taken within the prison setting to prevent recidivism.

Within the thesis the assessment of risk and dangerousness will be explored. Further to this will be the examination of the differences between desistance and deradicalization and the factors which may influence the decision of the offender to desist from terrorist activity. The question of whether desistance is enough or whether the offender must be deradicalized will also be considered.

Research Aims and Objectives

The primary research aim is to examine the recidivism of terrorists within the UK and to detect whether it is of such a level as to justify the Government reaction to the London Bridge and Streatham attacks. The Terrorist Offenders (Restriction of Early Release) Bill 2019-2020 was fast-tracked through Parliament in response to the London Bridge attack. This was followed by the Counter Terrorism and Sentencing Bill (HL Bill 129-EL) which increases the sentences for terror offences and the length of time they will be supervised after release. The level of recidivism seen in recent studies of terrorists is very low, generally less than 10% with most being non-terror offences (Altier et al, 2019; Hodwitz, 2019). This would appear to suggest that the level of recidivism does not justify the government response.

The second objective is to examine the relationship between risk and dangerousness in the perception of terrorists. Today's society is very risk averse and the prevailing need is to minimise and manage risk (Douglas, 1992). In line with risk is the perceived dangerousness of terror offenders. From the recent studies it is seen that the level of recidivism is low (Altier et al, 2019; Hodwitz, 2019) but that the perceived danger is high. The assessment of these two

factors can have a large impact on the way these offenders are perceived within the criminal justice system and how they are treated both within prison and after release.

The third objective is the examination of the use of deradicalization programs. These programs are controversial with some doubt as to their effectiveness, there is even evidence some may be responsible for radicalising individuals (Webber et al., 2018). There is also the question of whether it is sufficient for an individual to desist from violent action while maintaining their radical views without deradicalization. One of the main detractors with deradicalization is that the thoughts in the individuals mind have to be changed in order to deradicalize them. With desistance however they can still have radical ideas they just choose not to use violence to voice them.

The final objective is the examination of the sentencing of terror offenders within the UK before and after the London Bridge and Streatham attacks. What difference does the new legislation actually make to the sentences passed down to terror offenders. Further to this will be the comparison of sentencing between the UK, the Netherlands, and the US. The thesis will examine the different approaches taken in the sentencing of terror offenders. The perception of the punitiveness of each of the systems will be examined. The Netherlands appears to be the least punitive and the US being the most with the UK somewhere in between.

Importance of the Research

As mentioned in the introduction the legislation introduced after the attacks on London Bridge and Streatham were fast-tracked through the parliamentary process. The perception being that offenders who have been released and those due for release in the future pose an immediate threat. When legislation is rushed through this process it does not have the time required for careful consideration and contains errors (Constitution Committee, 2009). Further

to this notion that the legislation may be ill-conceived is the suggestion that alternative measures could have been taken rather than the punitive measures in the legislation which affect all terror offenders rather than the small percentage who may pose a danger of reoffending.

Research Methodology

This thesis will be completed by desk-based research, using primary and secondary sources of information to examine recidivism within the UK and the factors which may have an effect on the levels of recidivism. For the factors involved in desistance and deradicalization and sentencing there will be comparison with the Netherlands and the US. Examining the workings of one system in isolation has limitations, this has led to social scientists using comparisons involving two or more systems from different geographical areas (Bachman & Schutt, 2015). The comparative method can be used to examine factors on a number of levels such as at national, regional, or local level (Bachman and Schutt, 2015). This makes the comparative method very adaptable and allows it to be used widely when conducting research. For example, the occurrence of recidivism could be compared between nations, regions, cities or even within particular areas of a city. The comparative method allows for a broader view of the subject to be taken than is possible when researching a single location (Bachman & Schutt, 2015).

Within comparative methodology there is no widespread or universal agreement upon the actual method used in the comparison (Bachman & Schutt, 2015). As a result of this the methods used to compare systems can vary widely between studies and this can be problematic. The method used within a study must however remain consistent and the factors being compared must also be the same. This can be problematic when comparing between nations as the definition or interpretation of a particular crime may differ among nations. For example,

terrorism has a number of definitions with some countries even having multiple definitions (Laqueur, 1987, Mehra and Cook, 2021). This can have quite a large effect on terror statistics when comparing between nations.

The choice to compare the UK with the Netherlands and the US was made on a number of factors. First is the perceived punitiveness of the respective justice systems. The Netherlands is perceived to be one of the most liberal justice systems in Europe, but this has been changing over the last few decades (Kruttschnitt and Dirkzwager, 2011, Tonry and Bijleveld, 2007). The UK is widely viewed as having the most punitive justice system in Western Europe (Cavadino et al., 2013). The US is seen as the most punitive of the western liberal democracies and also has the highest incarceration rate of any country in the world (Walmsley, 2020, Tonry, 2015). The second consideration is that they are all western liberal democracies and may to some extent be viewed as having broadly similar belief and value systems. The final consideration in choosing to compare these countries is the use of the English language, it is the official language in both the UK and US and is widely spoken in the Netherlands being recognised as an official language within some municipalities. Further to this many Dutch government reports and academic research papers are published in English.

There are three factors which will be compared within the thesis. The first being the assessment of risk and use of actuarial tools which will be examined in Chapter 3. Secondly is the use of deradicalization programs within the prison system and how these are viewed. The final factor is the sentencing of terror offenders and their management within the prison system. The steps taken within the prison system are vital in preparing the individual to rejoin society and preventing recidivism.

Structure of the Thesis

Chapter 1 begins with the introduction and background to the thesis followed by the thesis statement and the aims and objectives of the thesis. The primary objective is to examine terrorist recidivism in the UK and discover if it is of a level to justify the legislation introduced by the government after the London Bridge and Streatham attacks. The second objective is to examine the relationship between risk and dangerousness and how this affects the perception of terrorist offenders. Thirdly the thesis will examine the use of deradicalization programs and compare their use in the UK, the Netherlands, and the US. The final objective is to examine the sentencing of terror offenders within the UK, the Netherlands, and the US to see what differences these policies may have on recidivism.

Chapter 2 will begin with an examination of the different ways recidivism can be defined. There are a number of different ways to define recidivism and this can have effects on peoples understanding of recidivism. The differing definitions can also have an effect on the general perception of recidivism by terror offenders within the public. The chapter will then move on to examine a number of recent studies on the recidivism of terrorists and compare the findings. The UK has a long history of dealing with terrorists as Irish Republicanism has been a problem on and off since the mid 1800's. Currently dissident republicans are the most active terrorists in the UK and responsible for many more terror incidents than jihadist or right-wing groups (EUROPOL, 2020). The chapter will conclude with the results of examining the levels of recidivism.

Chapter 3 will begin with defining risk and the modern perception of risk within society. The main section of the chapter will focus on the assessment of risk concerning terrorists. The problems associated with the assessment are also examined as terrorists are not a homogenous group. All terrorists are not alike and even within recognised groups such as jihadis or right-

wing terrorists there are wide differences. Further to this the number of terrorists is generally quite small so developing risk assessment tools with the required level of accuracy can be problematic.

Chapter 4 will examine danger and the legal definition of dangerousness. The differences between risk and danger will be highlighted along with the perception of dangerousness. As with the assessment of risk in the previous chapter the assessment of dangerousness will be examined. The problems with assessing dangerousness will be highlighted and the need for better assessment methods will be focussed on. The interaction between the assessment of risk and dangerousness will be studied.

Chapter 5 will begin by first defining desistance and deradicalization. It will then examine the differences between desistance and deradicalization. The determination on whether desistance is enough when dealing with terrorists or if deradicalization is required to stop recidivism will be examined. The concept of deradicalization is relatively new and is still a controversial topic with arguments ranging from it being an achievable goal to deradicalization programs actually leading to the radicalisation of individuals. The use of deradicalization programs will be compared for the UK, the Netherlands, and the US. The approaches used differ markedly and the possible effects on recidivism will be examined.

Chapter 6 will examine the sentencing policy of the UK both before the London Bridge and Streatham attacks and in the aftermath. The results of the new legislation will be examined and the affect this has on the sentences which can be passed down and also the added measures which will be imposed upon terror offenders when they are released from custody. In addition to this the sentencing policies of the UK will be compared with those of the Netherlands and the US. This comparison will examine what effects the different strategies may have on the level of recidivism within the released terror offenders.

Chapter 7 will be the conclusion of the thesis and will give a comprehensive overview of the conclusions reached in the preceding chapters. It will make suggestions on what other measures may have been taken in response to the attacks on London Bridge and Streatham. The possible negative effects of the measures in the Terrorist Offenders (Restriction of Early Release) Bill 2019-2020 and the Counter Terrorism and Sentencing Bill (HL Bill 129-EL) will be discussed further. The possibilities for further research will also be examined along with the need for better risk assessment of terrorist offenders.

Chapter 2

Defining Recidivism

There is much concern within governments and criminal justice systems that the level of terrorist offending is going to be increasing as more terror offenders are released by 2023 (Hasisi et al., 2019). Currently the level of terrorist recidivism in Western Europe and the US is very low compared to other criminals at just 3% in the UK between 2013-2019 (Copeland and Marsden, 2020) and 1.6% in the US (Hodwitz, 2019) with the average global recidivism rate for terrorists being just 2.9% (Copeland and Marsden, 2020).

One of the problems with comparing the recidivism of terrorists is that there are a number of ways of defining what is recidivism. The first problem is what type of crime counts as terrorist recidivism. In general, any type of recidivism is low within terrorists as they do not have the same criminogenic needs as ordinary criminals. The question must be asked is any type of reoffending going to be acceptable or must the aim be to prevent all reoffending? Historically the level of recidivism for ordinary criminals in the world usually sits between 40-60% (Laqueur, 1987). As mentioned above the level of recidivism with terrorists is considerably lower than that for ordinary criminals.

With terrorists in the UK post 9/11 the recidivism rates have been very low just 3% between 2013-2019 (Copeland and Marsden, 2020) and in a study by Silke (2014) from 2001-2008 only one was reconvicted and this was a financial crime for personal gain. The overall level of recidivism in UK terrorists appears negligible. This however has not always been the case, as mentioned in chapter 1 the group responsible for most terror incidents in the UK in 2019 are dissident republicans in Northern Ireland. Dissident republicans were responsible for fifty-six terror incidents during 2019 where jihadists and right-wing groups were responsible

for only one attack each (EUROPOL, 2020). During the period of 'the troubles' in Northern Ireland (1968-1998) the recidivism rate for terrorists was 40% with half of those offences being terrorist in nature (Blackwell, 1988). During the troubles remission on sentences in Northern Ireland was 50% and then the offender was released on license, the sentences handed down were also relatively short and this was in stark contrast to England and Wales where sentences for terrorism were much longer and parole was only given for a small portion of the sentence (Blackwell, 1988).

Another problem in comparing recidivism is what crimes are defined as reoffending. This causes problems where the crime is only counted as reoffending where it is the same crime as that initially convicted for. An example would be where an individual is convicted for possessing materials for bomb making, they serve the sentence for that offence then after release they are charged with stealing a car. This second offence may not be described as reoffending in some jurisdictions as the individual has not committed this offence before.

In addition to the above are cases where the offender is guilty of a terror offence and has previously been convicted for a non-terror offence. An example of this is Richard Reid, the shoe bomber, who was radicalized while serving a prison sentence for a non-terror offence then tried to blow up a plane after his release. In contrast to the above example this case involves a completely different type of offence. The problem here is that some jurisdictions may recognise both of these offences as reoffending while other jurisdictions may only recognise one or neither of these offences as being reoffending.

The time between release and the commission of another offence can also cause problems with the definition of recidivism. In most studies of reoffending there is a fairly short time after release until the levels of recidivism are checked. These are generally within the first few years of release, usually up to five although there are some studies which check on

recidivism to more prolonged periods. In general, it is found that recidivism occurs in the first few years after being released. With the Terrorism Recidivism Study in the US, it was found that all the reoffending occurred within the first three years after release and this study had offenders who had been released for up to ten years (Hodwitz, 2019). Most studies would appear to show then that the most likely time that reoffending will occur is within the first few years of release from prison. This is not to say that after the first few years of release there is no risk of the offender reoffending. The risk appears to diminish with time, but the circumstances of the individual may change, and they may return to their previous terrorist behaviours. This may be due to a single event or to a series of events which lead the individual to reoffending.

As well as the fear of homegrown terrorists reoffending there is also concern about the possibility that returning foreign fighters will offend upon their return. Unlike most of the Western European states the US has been very active in imprisoning returnees or those who have attempted to travel to fight in foreign conflicts (Meleagrou-Hitchens et al., 2020). In most cases the sentences in the US for foreign fighters have been approximately 13 years for giving material support to a foreign terrorist organisation (Meleagrou-Hitchens et al., 2020). In comparison, the Western European states have been less proactive in imprisoning returning fighters, this is because the evidence of them having been directly involved in any terrorist acts is just not obtainable from within the conflict areas (Meleagrou-Hitchens et al., 2020, Davis, 2020). For this reason, there are some four hundred returnees in the UK who have not been charged and are under no overt restrictions since their return (Meleagrou-Hitchens et al., 2020). There has however been action taken by some states to withdraw citizenship from those who have left to fight and to stop them returning. This has affected not only males but the women and children who have left or were taken to conflict zones (Davis, 2020). There is no doubt that some of these individuals will pose a threat as there have been attacks in France and

Belgium which involved returnee foreign fighters however most returnees who then perpetrate a terror attack in their home country do so very shortly after returning (Renard, 2020). The fact that these returnees may have received terrorist training and may even have combat experience would appear to make them more a threat than a homegrown terrorist who may gather all their terrorist knowledge from the internet. The majority of returnees in the US will not be released until 2023 and there is concern that there may be an upsurge in the level of reoffending as these offenders are released back into society (Meleagrou-Hitchens et al., 2020).

Terrorist Recidivism Studies

There have been a number of studies which have concentrated on the recidivism of terrorists. This chapter shall concentrate on five of these studies. The first study was carried out by Silke (2014) in the UK and involved offenders convicted after 9/11 and released by 2008, at the time the study was published only one offender had been reconvicted and this was for a non-terror offence. The second study also took place in the UK and was the Northern Ireland Early Release Scheme. This was introduced after the Good Friday Agreement which brought the most recent troubles in Northern Ireland to an end. The third is the Terrorist Recidivism Study which was conducted in the US. Fourth is the study on terrorist recidivism in the Netherlands with the fifth being conducted in Belgium.

In addition to the above studies there shall be a brief examination of studies which appear to contradict the low recidivism seen in other studies. The first is by Hassisi et al (2019) which studied Palestinian offenders in Jerusalem and showed reoffending higher than studies in the West. The second is a study of Guantanamo detainees by the Office of the Director of National Intelligence which shows a recidivism rate of 30.7% (Renard, 2020) and the last is by

Altier et al (2019) which studied eighty-seven autobiographical accounts of terrorists and found a reengagement rate of 61%.

Each study shall be examined, and the results and methodology compared and contrasted. As this thesis concentrates on the UK studies carried out in this location will be more likely to give an accurate picture of the level of recidivism which can be expected there. The other studies may give some indication however given the differences in terror groups and types of terrorists their results will not be directly applicable to the UK.

Terrorist Recidivism Studies in the UK

In the years after 9/11 the focus of counter terrorism in the world changed to jihadist groups, until the time of the attacks the focus in the UK had been on dissident republicans in Northern Ireland. Although the troubles officially ended with the good Friday Agreement there were still some groups who felt the deal did not give them the united Ireland they sought.

The first study in the UK on jihadist recidivism in the wake of 9/11 was conducted by Silke (2014). This involved an examination of 196 offenders who had been convicted and released in the period after the 9/11 attacks had taken place. Of these offenders none had been reconvicted of a terror offence, in fact only one was reconvicted of any offence and this was fraud for purely personal gain (Renard, 2020).

Following on from this study was a further examination of recidivism which covered the period from 2013-2019. This study involved 196 offenders released in this time of which six were reconvicted of a terror offence, a recidivism rate of only 3% much lower than the 40-60% seen in ordinary criminals (Renard, 2020). The levels of recidivism within these two studies are very low compared to that of ordinary criminals. As will be shown below they are comparable with those seen in other Western European states and the US.

With such low recidivism rates for terror offences the question is why was there such a rapid and punitive reaction to the London Bridge and Streatham attacks by the UK government. The fact that these two attacks occurred so close together by terrorists who had been released from prison and the constant emphasis on the threat of jihadist terrorism from both the government and in the media, there was probably an element of the ‘something must be done’ syndrome (Constitution Committee, 2009). This is where an organisation sees a situation where they feel they must be seen to do something. In the case of governments this usually results in legislation which is rapidly brought into force. Legislation of this type is rarely well constructed and, in many cases, does not solve the problem it was intended to or has other unforeseen consequences (Constitution Committee, 2009). In this case the legislation enacted would bring an end to the automatic early release of terror offenders, having them serve at least two thirds of their sentence before being assessed by the parole board and then having greater restrictions and a longer time under supervision after being released on license (Hall, 2020). The need for all of these measures for all terror offenders is questionable given that only a very small proportion of them are seen to return to their previous nefarious ways.

Another group of terrorists in the UK who have been extensively studied is those in Northern Ireland released under the Good Friday Agreement. The troubles in Northern Ireland and the Provisional Irish Republican Army (PIRA) have been among the most written about terror conflicts or groups in the world (Oppenheimer, 2018, Taylor, 2011). These terrorists were released early and were to be subjected to intense supervision as their returning to terror activities would have a detrimental effect on the position of their political parties in the ongoing peace process in the province (Taylor, 1998). In the period after the agreement (1998-2011) studied by Silke (2014) only 2.2% of the 453 released terrorists returned to terrorism.

This extremely low rate of recidivism is in stark contrast to the 40% rate seen during the conflict, half of the recidivists were reconvicted of a terror offence (Blackwell, 1988). A

factor in this large difference may be the large part played by the republican prisoners in the peace process (Taylor, 2011, Taylor, 1998). The terror groups themselves have disarmed and given up on the use of violence to achieve their aim of a united Ireland. This may have taken away any incentive of those released to return to violence. A further factor may be the fact that there are a number of groups who have not given up the armed struggle and the relative ease with which individuals can move from one group to another (Leahy, 2020). This complicates the true accounting of the level of recidivism as those caught and convicted are now affiliated with a different group. However, as mentioned above the dissident republican groups are responsible for the vast majority of terror incidents in the UK and those who have not been caught and convicted could have prior terror convictions. An argument against this however is that most active terrorists are young men in their twenties whereas most of those released under the Good Friday Agreement would now be at least in their early forties (Horgan, 2009). It would therefore seem more likely that most of the active terrorists in the dissident groups have been brought into the groups after the Good Friday Agreement.

The Terrorist Recidivism Study (US)

The Terrorist Recidivism Study was carried out in the US by Hodwitz (2019) in an attempt to produce empirical evidence that the prevailing theory that jihadist terrorists would reoffend at a high rate was accurate. The study involved an examination of 561 terror offenders who had been convicted in the period after 9/11 until 2018. During the period of the study 247 of the offenders were released and of that number only 4 (1.6%) reoffended (Hodwitz, 2019) of these reoffenders only 1 (0.5%) was for a terror offence (Renard, 2020). This is an exceptionally low rate of terror reoffending, but the 1.6% reoffending rate is within the range seen within the other Western Democracies.

It is also noted within the study that five of the offenders were convicted of other terror offences committed whilst still serving their sentence for the original terror offence. These offences committed whilst still in prison are not generally included in the results of most other terror recidivism studies. It is of note however that even if they were included the recidivism rate is still within the range seen in other recidivism studies.

A number of possible reasons are given within the report for the low level of recidivism seen. The first of these is that recidivism for terror offenders is very low and that the unexpected results of the study are evidence of this. The second possible explanation for the low recidivism seen is that terror offenders take a longer time to recidivate than seen in other offender types (Hodwitz, 2019). This however is somewhat refuted as the offenders had been released for periods of up to ten years and all of the offending took place within the three years immediately after release from prison (Hodwitz, 2019). This would suggest that the years immediately after release are where there is most risk of recidivism occurring, this was seen in the two instances in the UK where the reoffending occurred within the first two years after release. The third possibility is that terror offenders are better at hiding their activities after being caught the first time (Hodwitz, 2019). This is a troubling possibility however it is also the least likely. Terror offenders are subject to greater scrutiny by the probation, police and security services after their release and it is therefore unlikely that they would be able to hide any terror activities they may taking part in. The surveillance of the offenders did find mostly minor criminal or bail offences so it would seem unlikely that they could successfully cover their terror offences but get caught for other minor offences.

Given the low rates of recidivism seen in the study and the already high level of surveillance from a number of agencies within the US law enforcement and intelligence services of terror offenders, it would appear that adding further restrictive policies and

surveillance powers for terror offenders would not result in any appreciable reduction in an already low rate of recidivism.

Recidivism Studies in the Netherlands

There have been two studies of recidivism in the Netherlands concerning terrorists in the period after the 9/11 attacks. The first of these by Schuurman & Bakker (2016) was conducted in 2013-2014 very soon after the beginning of the program to reintegrate terrorist offenders back into society in 2012. In this study there were only a small number of participants and the program was only just beginning. The small numbers of participants mean that even one or two cases of recidivism would have a large impact on the percentage for recidivism. There were only five participants of which two made their way to Syria where it is believed they were killed (Schuurman and Bakker, 2016). The program was also in the very early stages of development and as such there were the usual problems concerning the design and implementation of the program (Schuurman and Bakker, 2016).

In the second study conducted some years later between 2016-2018 the results were seen to be more in keeping with those of other studies carried out in different countries. The rate of recidivism was seen to be only 4.2% (Renard, 2020, van der Heide and Schuurman, 2018), this was in contrast to the 40% figure of the first study. The explanation for this is that the program had been running for a number of years by this time and there was a greater number of participants. The first study had only five participants as such the reoffending of only one would have a large impact on the appearance of the results. With more participants a more representative picture of the level of recidivism in Dutch terror offenders is given.

The two studies of the reintegration program were conducted in much the same way, so the results are very comparable with each other. The main difference between the studies is

in the recidivism figures and this is explained by the larger number of participants in the second study which gives a truer picture of the level of recidivism among the terror offenders in the Netherlands. The levels of recidivism between the three countries being studied are 1.6% in the Terrorist Recidivism Study in the US, 3% in the UK, and 4.2% in the Netherlands. These are all very low figures for reoffending when compared to the usual level seen in offenders within the general prison population, this usually is seen to be between 40-60% (Laqueur, 1987).

Recidivism in Belgium

The study of jihadi terrorist recidivism in Belgium is an interesting case as it has the highest rate per capita of jihadi terrorists within the European Union (Renard, 2020). Further to this the study by Renard (2020) also covers some thirty years from the early 1990's until 2019. This means it is one of the most comprehensive studies of jihadi terrorist recidivism to be conducted in Europe in terms of time and number of terrorists examined.

Within the study the area of recidivism is examined in the narrow context as seen in studies by Altier et al (2019) where recidivism is defined as two distinct terrorist convictions over two distinct periods which are separated by a distinct period of disengagement, usually a term of imprisonment (Renard, 2020). Further to this the study also examines terrorist reengagement where the two periods are separated by a period of disengagement which may be voluntary or involuntary but is not necessarily from a judicial conviction (Renard, 2020).

It is seen within the study that the rate of recidivism is in line with other western studies and very low at only 2.3% (Renard, 2020). Further to this even when reengagement without a reconviction is taken into account the rate of recidivism and reengagement combined is only 4.8% (Renard, 2020). There are some problems acknowledged within the study which may

have the effect of decreasing the level of recidivism and reengagement however the effect that this would have on increasing the levels is thought to be marginal (Renard, 2020). Taking this into account the level of recidivism and reengagement seen within Belgium over a period of some three decades is very low and appears to reinforce the results of other studies that overall terrorists appear to desist from terrorism after their first conviction. There are however a number of studies which appear to contradict these findings, and these will be discussed in the next section.

Studies with Higher Levels of Recidivism

There are three studies which will be examined here which appear to show much higher levels of recidivism than seen in most other studies, especially those in Western Europe. A number of factors may account for this. First is the fact that for most locations terrorism is a rare occurrence and as such there is only a limited amount of data to collect (Renard, 2020). When studying any type of phenomena more data is usually better than less however terrorism itself is rare and recidivism in terrorists is even more so, this results in studies of recidivism in terrorists generally involving small numbers of individuals (Renard, 2020). In studies involving small samples a small change in figures can have a significant effect on the outcome. A second factor is that access to judicial and penitentiary data on offenders may not be forthcoming from the authorities and the researchers therefore rely on open-source data which may not be accurate. A third factor may be that the methodology used in the study is not clear and this can lead to confusion as to exactly how and what is being measured and this can make comparison between studies difficult (Renard, 2020). These factors can lead to some studies appearing to have results which differ greatly from the majority which make up the norm.

The first of the studies on recidivism which will be examined in this section is that conducted by the Office of the Director of National Intelligence in the US on former detainees at Guantanamo published in January 2019. This study showed that as of the time of publishing 17% of the released detainees had returned to terrorist activities while another 13.7% were believed to have reengaged with terrorist activities, this gives an overall recidivism rate of 30.7% (Renard, 2020). There are however a number of problems with this study. First is the fact that many of the detainees were held on the flimsiest of evidence of involvement in terrorism and they were never convicted of a terrorist or other offence (Renard, 2020). There is no previous conviction and, in most cases, very little, if any, evidence of previous involvement in terrorism so classifying them as recidivists or having reengaged is problematic. A second problem when comparing the Guantanamo study with others is that it appears to measure reengagement. Within the study itself 17% had reengaged with terrorism but there is no indication of how many of these individuals have been convicted of involvement in terrorist activities (Renard, 2020). Further to this the remaining 13.7% are only suspected of having reengaged and have not been charged or convicted of any terrorist or other offences (Renard, 2020). As the Guantanamo study measures reengagement rather than recidivism it is not comparable to the other studies examined above. Recidivism and reengagement are two very different measures and although the level of reengagement and suspected reengagement of 30.7% is high it is not comparable with the studies of recidivism above. As mentioned above the detainees were not convicted before their detention at Guantanamo and the evidence of terrorist involvement was in many cases flimsy. Further to this the study does not give any evidence of terrorist convictions after they were released from Guantanamo and in those suspected of reengaging there is no evidence given that they did in fact reengage.

The second study which appears to show a high rate of recidivism in terror offenders is that carried out by Israeli researchers and concerning the reoffending of mostly Palestinian

offenders. This study involved 1,557 offenders and took place between 2004-2017 (Hasisi et al., 2019). This study gave a very high reoffending rate of 60.2% over the five-year period after release (Renard, 2020). There are differences which make this study also not comparable with the other studies examined previously. The first is that despite being a large number of subjects there are problems distinguishing between terrorist and criminal offenders within the 'security offenders' when it comes to recidivism (Renard, 2020, Hasisi et al., 2019). This means that some of the offenders may be criminals and some of the reoffending may be purely criminal in nature rather than terror related. Further to this and in common with the Guantanamo study the concentration is on reengagement in terrorism rather than recidivism and there are some subjects who were rearrested but were not charged or convicted with a further terrorist crime (Renard, 2020). The high recidivism seen in this study therefore cannot be compared to the other studies.

The third study which appears to contradict the lower recidivism seen in the previous studies is that conducted by Altier et al (2019) which examined a sample of eighty-seven autobiographies of terrorists from a number of groups and regions which were published between 1912 and 2011. This study showed a high reengagement rate of 61% (Altier et al., 2019). Again, it is seen that this study relies on reengagement rather than recidivism and is therefore not comparable with the recidivism studies. A further point which is acknowledged by the authors of the study is that this sample may not be representative of terrorists in general as those with brief terrorist careers will be unlikely to write an autobiography (Altier et al., 2019, Renard, 2020). The current research appears to show that most terrorists will have a short career as a terrorist in most cases lasting less than a year (Horgan, 2014). This would make it unlikely that the majority of terrorists would have a terrorist career which would make the writing of an autobiography a realistic proposition. These two factors make the results of this study not comparable with the recidivism studies.

It can be seen that although these three studies appear to contradict the previous studies in having a far higher rate of reoffending, they are measuring reengagement rather than recidivism. In the case of the Guantanamo study most of the detainees were never charged or convicted of a terror offence and the evidence against them was in most cases very flimsy (Renard, 2020). It could be argued therefore that many of the detainees may have become involved in terrorism after their release due to the injustices done to them in Guantanamo. Altier et al (2019) measures reengagement and while 61% of those in the study did reengage, they are not a representative sample of terrorists and this is acknowledged by the authors themselves. All three studies also concentrate on reengagement rather than recidivism and this makes comparison with the recidivism studies problematic as they are measuring different things.

Chapter Summary

This chapter has examined recidivism beginning with the difficulties seen in defining recidivism. This problem with defining what recidivism is can cause difficulties when comparing the different studies on the recidivism of terrorists. It was seen that for the most part the studies conducted in the US and Western Europe the levels of recidivism seen were very low in comparison with the level of recidivism seen in ordinary criminals. The levels seen in the studies were all very low with the US having a level of 1.6% (Hodwitz, 2019), the UK having 3% (Silke, 2014) and the Netherlands with 4.2% (van der Heide and Schuurman, 2018). These levels would suggest that for the most part the risk of terrorists reoffending after release from prison is very low. There were seen to be other studies which appear to contradict these findings (Renard, 2020, Hasisi et al., 2019, Altier et al., 2019) however it was seen that these studies were measuring reengagement rather than recidivism and they were not relying on the

reconviction of terrorists after a second offence. In the Guantanamo study the involvement of the detainees in terrorism was based on flimsy evidence and they were not convicted of any offences (Renard, 2020). The study by Altier et al (2019) also concentrated on reengagement and was seen not to be representative of terrorists in general although the autobiographies were from a number of different groups and published over a long time period (1912-2011). This chapter has therefore shown that the risk of recidivism in terrorists is very low. In the next chapter the concept of risk shall be examined along with the problems of the perception and assessment of risk concerning the reoffending of terrorists.

Chapter 3

The Changing Definition of Risk Over Time

The definition of risk and how risk is perceived has changed radically over the past century. In the early part of the century risk was seen as something to be measured if possible and something that could be insured against, the greater the risk of something happening the higher the premium to be paid. As such risks with a slight chance of occurring would be seen as negligible and would be very unlikely to really be considered overly much in the consideration of risk overall. This began to change as the perception of risk has changed over the course of the century. Risk began to be equated with danger and the term 'risk society' came into being by Beck (1992). In this type of society risk is more equated with danger and dangerousness (Beck, 1992). The risk therefore became a factor which had to be managed and if possible, eliminated (Lupton, 2013).

As risk was now equated with danger it developed and began to take on a more foreboding presence in the mind of those tasked with measuring risk (Douglas, 1992). Risk and danger were seen as interchangeable terms and the management and elimination of risk became more apparent than the actual measurement of risk seen in the earlier part of the century. The measurement of risk in terms of the statistical probability of a risk occurrence happening is still seen such as in the chances of an individual having a heart attack within a certain population, this is usually measured per 100,000 people within a population. For example, if the chance of a risk occurring is 1 per 100,000 then this is a very small chance that the risk will occur, on the other hand if the risk is 1,000 per 100,000 then this is a much larger chance that the risk will occur.

The perceived danger from a risk can also have a much greater effect on how that particular risk is managed. As mentioned earlier the risk of a terrorist reoffending is very small

with less than 8% of terrorists reoffending in any form and less than 4% reoffending with a terrorist act (Silke, 2014b). The chances of an individual being killed or injured as the result of a terrorist crime is very small (10 per 100,000) and there are risks which are far greater to the general population such as heart attack (50 per 100,000) or car accident (100 per 100,000) (Ezell et al., 2010). Yet despite the very remote chance of becoming the victim of a terror attack it is still seen as being a high concern within the general population (Silke, 2014c).

As the definition of risk has changed the perception of what risk is has also changed. Instead of being something to be measured and avoided, if possible, for greater risks all risk now is associated with danger and even remote risks are to be managed and avoided from occurring. As stated above the risk of being the victim of a terrorist event is very remote and the risk of being the victim of a terrorist reoffender is even more remote yet politically even this extremely remote risk appears too much, and measures are taken to eliminate even this remote risk.

In this modern era risk means danger and in some instances any risk, no matter how remote it may be is deemed to be unacceptable. In the realm of counter terrorism, the government appears to be expected by some to totally eliminate all risk of a terrorist attack occurring. This of course is an impossibility as there is no way to completely eradicate the risk posed by terrorists. All that can be done is to accurately measure the risk posed by a terrorist and take proportionate measures to minimise that risk. The measurement of risk posed by terror offenders and the risk of their reoffending will be examined in depth in the next section.

The Measurement of Risk and Reoffending in Terror Offenders.

The measurement of the overall risk of reoffending among a group of offenders is to the layperson a quite complex calculation of probability. To the mathematician or statistician

however the calculation of the probability of reoffending within a particular group is relatively simple if they have accurate data on which to perform the calculation. This probability then may give the probability that one in every hundred of the group of offenders will reoffend. So far this is very simple, but the problem occurs when trying to decide which one in the hundred offenders will be the one who reoffends. This is the problem faced by those who decide if an offender should be released on probation and what measures the offender management service should take with each offender. Unfortunately, as evidenced by the London Bridge and Streatham attacks it is not easy to tell what is really going on inside the head of an individual and that what the offender says cannot be taken at face value. In both instances the offenders had stated that they had seen the error of their ways and that the use of violence was not the way to achieve their aims. In the case of the Streatham attacker the prison, offender management and police services were very concerned that he would reoffend and as such he was under constant armed surveillance from the moment of his release from prison ten days earlier. The London Bridge attacker however was not under such intense observation and was deemed a minimal threat by MI5 shortly before the attack occurred (BBC, 2021).

While calculating the probability of a member of a group of offenders may be a fairly simple task the difficulty comes in actually assessing which member or members of the group will be the ones who offend. In order to assist in doing this a number of actuarial tools have been developed. There are a number of problems associated with the development of these types of tools. The first of these is whether they actually work in isolating the individuals who are most likely to reoffend. The second factor is the size of the group being studied and examined. With a very large group the results can be generalised for that group however with much smaller groups such as terrorists, who make up only a very small percentage of offenders in prison, the small group size means that the results may not be generalised. A further factor with terrorists is that their reasons and motivations may be completely different not only

between different groups such as Jihadist and extreme right-wing but also within the different factional groupings themselves, there is for example a lot of infighting between different Jihadist groups. As such developing an actuarial tool to assess the risk of terrorist reoffending is a very complex task. There are a number of tools which have been developed in order to assess the risk of reoffending and these will be examined in depth below.

There are different ways of assessing the risk of a terrorist reoffending. The first is the clinical opinion which as the name suggests is based on the opinion of a clinical professional, usually a psychiatrist or psychologist. This type of assessment is not based on empirical results from studies carried out with a number of subjects but on the learning and experience of the individual clinician. In this way it is possible for the conclusions of a number of clinicians to differ widely as to the likelihood of reoffending occurring. The accuracy of this type of assessment therefore is questionable unless a number of them are carried out on the one individual and all the clinicians come to similar conclusions. The clinical professional opinion is therefore seen as very subjective and may not be viewed as the most reliable method to be used in assessing terrorist or other offenders risk of reoffending.

The second method of risk assessment is the actuarial method where conclusions are drawn from studies which may involve from a handful to hundreds of subjects. The reliability of these conclusions is increased with the greater number of subjects. This poses a problem in the study of terror offenders as there are only a relatively small number of these types of offenders. Further to this as stated above not all terror offenders can be assessed in the same way. Not all terrorists will have the same drivers or motivations for why they have become terrorists and they will also have different reasons for what they may do when they are released from prison. For this reason, it may be that an actuarial tool may perform well with a certain group or groups of terrorists for whom it has been developed and tested on but that it may not perform to the same level with other groups of terrorists.

The Extreme Risk Guidance 22+ (ERG 22+)

The Extremism Risk Guidance (ERG 22+) is an actuarial tool developed within the UK for the Prison and Probation Service (HMPPS) in 2011. It is used as a tool in the assessment of risk and needs of extremist offenders both within the prison setting and when released. In contrast to subjective clinical assessments which are carried out by clinicians which may not be very clear or open to outside assessment the ERG 22+ provides an empirically informed and transparent assessment of the risk and needs of extremist offenders (Lloyd, 2019).

During the development of the ERG 22+ reference was made to the current international literature on terrorists and casework from 50 terrorist offenders in the UK (Lloyd, 2019). In addition, the criminogenic profiles of extremist offenders were compared to the profiles of non-extremist offenders using data from the Offender Assessment System (Lloyd, 2019). As mentioned above the more offenders used in the development of actuarial tools the more likely it is that the tool will show generalizable results when used within the targeted offender group. Although 50 subjects may not sound like a large group for the development of such a tool it must be remembered that compared to other offender groups within the prison population terrorist offenders only make up a very small proportion and there are generally less than 250 terror offenders in UK prisons at any one time, so this number is relatively large when this is taken into consideration.

The ERG 22+ is also one of the few actuarial tools to have been tested thoroughly through IRR and was seen to perform well in the clinical research environment and good within the field environment (van der Heide et al., 2019). The tool is used by prison officers and those involved in probation as well as professionals performing psychiatric and psychological assessments. The ERG 22+ focuses on the individual but it also considers outside factors such as the group, cause or ideology which can influence the offender (Lloyd, 2019). The ERG 22+

gives an indication of the risk and needs of an individual in the context of violent extremism and is used to provide measures to facilitate disengagement and desistance from violent extremist actions.

The assessment is not just based on a face to face with the individual but also takes into consideration other forms of data to make a more informed assessment of the individual. Those undertaking the assessments are encouraged to utilise as many forms of information as possible in order to make an assessment and this means that if the individual is unwilling to participate an assessment can still be made. The fact that an individual may not always be willing to participate in the assessment is not always a sign of extremism and can have other outside contributing factors such as being moved to a prison far away from family or other factors which may cause friction (Silke, 2014a).

The ERG 22+ is also a generic tool for all extremists rather than one which has been developed for use with a single specific ideology such as jihadist or extreme right wing. The ERG 22+ is used within the UK to assess all extremist offenders no matter their individual ideology, belief, or cause (Lloyd, 2019). Therefore, all extremists are assessed by the same tool and in the same manner, this makes the system simpler to administer as different tools have different training requirements for staff and may require different undertaking from offenders.

The ERG 22+ is structured in such a way that three dimensions are used to assess the individual. The first of these is 'engagement,' this is where the individual began to identify with the extremist ideology, cause, or group. In examining this the reasons why, the individual became interested in this ideology are scrutinised. This can give indications of the reasons the individual was looking for something or came to believe in the ideology. An example of this would be where an individual is isolated but craves to belong and be accepted by a group, in many cases of online radicalisation the individual drifts onto forums and finds one or more

where others who share their views are present and so through discussion the process of radicalisation and belonging begins (Silke, 2014). Also, it may be that in discussing their views the individual is introduced gradually to more extreme views over a period of time. This radicalisation was initially thought to be a very slow process taking place over a period of at least months however more recent research suggests this can take place much quicker in only a matter of weeks and in some cases days (Silke, 2014a).

The second dimension is 'intent,' and this refers to the mindset of the individual to be ready to engage in illegal activity (Lloyd, 2019). These activities are not necessarily violent such as the willingness to carry out an attack, but they will be activities which are illegal such as distributing propaganda or obtaining funds or materials for terrorist activities. These non-violent activities may progress through time to the planning or carrying out of an attack and the assessment of risk in this dimension is crucial. Abbas the Streatham attacker was deemed to be a high risk in this dimension whereas Khan the London Bridge attacker was not deemed a high threat and in fact MI5 closed their case on him as not being a threat shortly before he mounted his attack. This highlights the problem with risk assessment as being prone to error.

In the third dimension the 'capability' of the offender to carry out an attack or cause serious harm is gauged (Lloyd, 2019). This is a very complex factor to assess as it considers a mix of static, dynamic, risk-neutral, and risk-specific variables and is a more operational rather than clinical assessment (Lloyd, 2019). An example of this is Jose Padilla in the US who intended to set off a 'dirty bomb.' However, on examination of his intentions and abilities it was seen that he did not possess the technical skills to construct even a conventional bomb never mind obtaining material containing radioactive material within it and the ability or technical knowledge to extract the radioactive material from it in order to construct a 'dirty bomb' (Meleagrou-Hitchens et al., 2020). Although Padilla had the intent, he did not have the capability to carry it out.

Other considerations within the ERG 22+ are the protective factors which would prevent or stop the individual from being a risk or reoffending. These are factors which have a protective influence on the offender and are an aid in supporting them to desist and disengage from violent extremism. Within the ERG 22+ risk is not viewed as static but as dynamic and therefore susceptible to change. As such the assessment itself should be repeated periodically to gauge whether any change has occurred in order to maintain the relevance of the risk assessment. The risk assessment of an individual may differ greatly from the time they are first assessed to the point where they are considered for release 3-5 years later (this being the average length of time a terrorist offender spends in prison in the UK) (Silke, 2014).

The ERG 22+ does not make any prediction of the imminence of harm the offender may cause. There is highlighting of possible triggers to those dealing with the offender on a day-to-day basis in order to manage the risk. The assessment does not give the offender a banding as such however it is used to inform in risk management. There is an explanation of the factors which are important to the individuals involvement in extremism and of the other factors which will be important in aiding the individual to desist and disengage.

Violent Extremism Risk Assessment Version 2 Revised (VERA-2R)

The VERA was developed and designed to fill the need for a risk assessment tool specifically to assess violent extremists. The developers used existing risk assessment tools and compared the risk factors for those with the risk factors of violent extremists to see where there was overlap between violent offenders and violent extremist offenders and found that there was very little overlap between the two (RTI International, 2017). It appears from this that violent extremists are unlike other violent offenders and therefore need assessment tools designed specifically for them.

The test originally consisted of twenty-eight factors divided into five sections: attitude, contextual, historical, protective, and demographic (RTI International, 2017). The first section, attitude are those thoughts and beliefs which will increase the probability of the individual becoming a violent extremist. Contextual factors are those which impact the individuals social environment and social contact with extremist groups or individuals. The historical factors are those which show the use or approval of violence in the past in order to meet ones objectives. Protective factors are those which are shown to decrease the probability of the individual resorting to violent extremism. The demographic factors are sex, age and marital status which have been shown to be risk factors for terrorism (RTI International, 2017).

In 2010 the test was modified and became the VERA-2R. The VERA-2R contains indicators associated with twenty-five risk factors and six protective factors. The four main areas of risk factors were renamed to represent the updates and included: beliefs and attitudes, context and intent, history and capability, and commitment and motivation. The protective items section was expanded slightly from that seen in the original VERA assessment, one indicator was added to cover the experiences of deradicalization programs and the separation of family and community support for nonviolence into two indicators (RTI International, 2017).

There is evidence to support the thirty-one indicators which are present in the VERA-2R from Pressman and Flockton (2010) (RTI International, 2017). Further to this many of the indicators align with the five categories of ideology, affiliations, grievances, and moral emotions identified by Monahan (2012, 2015) (RTI International, 2017). Further to this the VERA-2R also contains a list of protective factors which may decrease the risk of an individual resorting violent extremism (Herzog-Evans, 2018). The VERA-2R is mainly used in the post-conviction setting and is in use in the UK, the Netherlands, and other European countries as well as North America (the VERA was developed in Canada) (Herzog-Evans, 2018).

Interestingly though the two centres in the Netherlands do not use the same assessment procedures and one does not utilise the VERA-2R in the risk assessment of terrorist offenders. It has been suggested that the VERA-2R could be used more widely in the risk assessment of violent extremists or potential violent extremists however the developers of the VERA-2R stress that the assessment tool is not a panacea in the prediction of radical violence and should only be used to supplement existing risk assessment strategies (RTI International, 2017).

The VERA-2R can be used with any extremist individual or groups and is also suitable for females as well as males and for youths (Lloyd, 2019). It can be used to inform in the risk assessment, risk management and risk decision making process including interventions and in tracking the progress of or assessment of management plans prior to discharge (Lloyd, 2019).

The VERA-2R is aimed specifically at assessing individuals who are at risk of succumbing to extreme radical beliefs, attitudes, and ideology (Lloyd, 2019). As with the ERG 22+ the assessment can be carried out with or without the direct participation of the individual being assessed. It is also similar to the ERG 22+ in that the VERA-2R can be used to assess individuals over a spectrum of extremist ideologies and is not confined to only a single group/ideology as in the case of the Islamic Radicalization (IR-46) assessment developed in the Netherlands which is described below.

In the VERA-2R risk is seen as dynamic and the assessment is based on the current status of the individual (Lloyd, 2019). Although it does take account of historical indicators these are interpreted in terms of the effects on the individual now with assessments being repeated over time to evaluate any changes.

Islamic Radicalization (IR-46)

The Islamic Radicalization (IR-46) was developed within the KiM Project of the Dutch National Police. It is based on empirical knowledge developed from the pathways of known cases and the examination of literature and interviews with academics, investigative and intelligence personnel experienced within the field (Lloyd, 2019). The model was developed and tested on three occasions and on 240 cases of proven Islamic Radicalisation to prove the theory (Lloyd, 2019). The IR-46 has been in use with the Dutch National Police since 2010 but its' use was optional within the regions until 2015 when it became compulsory to use it. In order to keep the model dynamic and up to date it is continuously evaluated however there has been no peer review of the model in any published article (Lloyd, 2019).

The model has five main aims. The first of these is to map out the signs of radical Islamist behaviour from an early stage. Second is to determine from their religious and social experiences when an individual is ready to use violence. The third aim is to determine how capable an individual is of actually carrying out an attack. The fourth aim is to interpret the interaction between personality, behaviour, and circumstances, as they provide an insight into the stage or degree of radicalisation which has been reached. The final aim of the model is to provide an overall view of the individual being assessed by the model.

The IR-46 model is based on the structured professional judgement (SPJ) with the important principle in this model that it is not to detract from the professional judgement of the professional but is there to give structure to the formulation of the judgement. The model is aimed to assess the risk of those in the community before they have committed a crime. As such the model is aimed at assessing the risk of individuals becoming violent extremists and taking measures to prevent them crossing this threshold.

The focus of the assessment therefore is on the degree to which the individual accepts the use of violence to achieve their political aims. It is rare that the assessment is completed face to face with the individual as the police carry out the assessment in the period before a crime has been committed (Lloyd, 2019). As such the IR-46 is used by the police to assess the risk of a member of the Islamic community who has come to their attention as a possible Jihadist, this may be through contact with other suspected or known Jihadists socially or with more extreme groups within places like Mosques. This model is restricted to use in Islamic radicalisation and therefore cannot be used as a generic tool to assess the radicalisation of other potential extremists such as those of the right-wing.

The IR-46 examines two different themes, ideology and social context which are then further divided into 26 and 20 factors respectively (Lloyd, 2019). The number of factors which are covered will differ with each case and may favour either the ideology or social context theme. As the more information is gathered the themes favoured may change as the number of factors covered increases. The model is used in the period before a crime is committed and therefore it is unlikely that all factors will be covered initially or some may never be covered. From the point of view of accuracy in the assessment the more factors which are covered the more accurate the assessment will be. As more information is added the snapshot of the assessment will give a clearer picture of what stage in the radicalisation process the individual is at. A further point to this is that the factors are not static so they may change back and forth between positive and negative. The assessment therefore is not a one-off static process but a dynamic ongoing process which will give a current indication of risk at the time the assessment was carried out; the result of the assessment will change over weeks and months so the process must be repeated to get an informed current assessment of the level of risk posed by the individual.

Identifying Vulnerable People (IVP)

The IVP was developed as a screening checklist in 2008 and came into use in 2010 but has now developed into a structured professional judgement tool. Although it has been in use since 2010 it is not known what organisations it has been officially adopted by, though it has been used in the UK, USA, and Canada (Lloyd, 2019). During the development of the IVP there were many stakeholder meetings and it has also been subject to peer review.

Like the IR-46 the IVP is used in the period before an offence has been committed but unlike the IR-46 it is aimed at any individual in whom there may be concerns of radicalisation. The assessment is direct but there is no need for specific training in the application of the model. It is aimed at all public service workers who have a PREVENT duty i.e., teachers or healthcare workers.

The framework is based on rational choice theory. It is taken that the individuals being assessed are rational and will choose the best course of action for themselves when looking at the available information and the probabilities of events. They must also examine the costs and benefits of whatever choices they make in determining their best course of action. The assessment consists of eleven generic risk indicators and five red flag indicators but the assessment does not consider any protective indicators the individual may have.

Comparison of Risk Assessment Tools

The ERG 22+ and VERA-2R are very easy to compare to each other as there are so many similarities in their design and intended use. They are both generic risk assessment tools for the assessment of those convicted of terrorist offences, unlike the IR-46 which is designed specifically to assess the level of radicalisation within the Islamic extremist ideology. Further to this the IR-46 is designed to assess the possible risk of radicalisation in an Islamic individual

before they have committed a terrorist act. This is similar to the IVP in that they both are used to assess the potential risk posed by an individual before a crime has been committed. Unlike the IR-46 the IVP is a generic tool and can be used to assess individuals who have a wide variety beliefs, ideologies, or religious teachings.

The level of training required to use each of the tools varies with the ERG 22+ and VERA-2R requiring the most training and assessment before an individual can be said to be competent in the use of the tools. In the middle ground is the IR-46 which requires some specialist knowledge of Islamic extremism and familiarity with the risk factors of violent extremism. The IVP however stands alone as there is no training or experiential requirement to allow the use of the tool, it is freely available online and any public sector worker can freely access and use it.

The independent assessment of the tools gives an indication of how robust they may be as those not involved in the development of the tools are assessing the theoretical, laboratory and real-world application of the tools. The Erg 22+, VERA-2R and IVP have all been extensively peer reviewed and they are seen to be good in the real-world setting and the ERG 22+ is very good in the laboratory setting. The IR-46 is used extensively within the Dutch National Police and was developed using empirical evidence from academics, real cases, and operators with extensive field experience of extremists, it has not however undergone any form of peer review but has been reported on extensively.

How Effective are Risk Assessment Tools?

The real measure of how effective the tools are is in assessing how accurate they are in correctly assessing the risk posed by individual extremists. In evaluating the effectiveness of risk assessment tools, it must be remembered that they are tools and as such are not used on

their own when assessing risk. They play a part in the assessment of risk and the use of certain tools may be mandatory within certain organisations but the risk assessment tool plays only a part in the whole assessment of risk of the individual.

Considering the number of terrorist reoffenders in the UK and that since the introduction of the ERG 22+ all terror offenders coming up for release and those already released will have been assessed the number of cases in which the offender has violently reoffended is very small. There are only two who are known to have carried out attacks after having been released after serving a sentence for a terror offence. Those such as Richard Reid, the shoe bomber, are not counted in this as though they committed a terror offence after release from prison his initial offence was not terror related and he was radicalised in prison. The two offenders highlighted are Usman Khan (London Bridge attack, 2019) and Sudesh Amman (Streatham attack, 2020). Of these two Amman was the only one where there was grave concern that he was going to carry out an attack sooner rather than later, in fact his attack occurred only 10 days after his release from prison. With the concerns raised in his case by the police, prison, and security service he was under 24/7 surveillance from the moment of his release and these officers were armed and ready to respond the moment his attack started.

During the inquest into the attack by Amman it was disclosed that in the period before launching his attack Amman was seen buying certain items which the officers suspected were going to be used in the manufacture of a fake suicide vest (Gardham, 2021). This was documented and as he was released on licence he and his accommodation could have been searched. The reason for not doing this was that it may have warned Amman that he was under supervision. This can be argued against in that he had already stated to family members that he thought he was under surveillance. The inquest found that had he and his premises been searched and he was returned to prison for preparing an act of terrorism the Streatham attack could have been prevented.

Given the high level of concern regarding further attacks by released offenders after the London Bridge attack it appears that the decision of the police not to search Amman and his property when suspicions were raised was remiss. This was an offender who was red flagged by the authorities even before his release. The fact that he was under 24/7 surveillance immediately upon release is unusual even for terror offenders. This added to the fact that purchases he made were flagged as suspicious should have led to measures being taken to prevent a possible attack. The risk assessment of the senior officers was flawed and allowed a preventable attack to occur.

In the case of Usman Khan (London Bridge, 2019) he was seen as something of a success story for the deradicalization process despite there being concerns that he had gamed the system and was still a terrorist risk. During the period after his release concerns had been raised about the possibility of him mounting an attack and MI5 (the Security Service) were actively investigating him. This investigation was conducted without the knowledge of others in the MAPPAs system. The lack of communication between the organisations involved in the management of offenders meant that the probation officer dealing with Khan was unaware of the concerns which had led to the instigation of the investigation. There is the possibility that had there been open communication between all the organisations managing Khan the probation service would have put more restrictions on Khan's attendance at Fishmongers' Hall. These restrictions may have involved having a probation officer search and escort Khan to the event or even not to allow him to attend the event.

The risk assessment of Khan at this point was based on the information available to the probation service at the time but it was flawed in not being based on all the information available about Khan within all the MAPPAs organisations. It could be argued however that the available information would not have made any difference to the decision to allow Khan to travel unescorted to the event. This is because the investigation by MI5 was at this point being

closed with the conclusion that he did not pose a terrorist threat at this time. The investigation was not active anymore and was going through the administrative process of being closed.

The Problems of Risk Assessment

As can be seen from the above the assessment of risk is not a simple task. For groups, the assessment is somewhat easier in that an entire group such as Al Qaeda can be designated as a terrorist organisation and deemed as a risk to the security and safety of those with contrary views. Membership of such a group exposes the individual to being deemed a risk and to possible prosecution for being a member of such a proscribed organisation. Many members of the PIRA and other paramilitary organisations were imprisoned for membership of proscribed groups during the Troubles.

The problems with risk assessment really come to the fore when dealing with the individual. Within the UK prison system there are relatively few terror offenders. They generally make up a group of less than 250 prisoners in a prison system with a maximum safe capacity of 76,000 and a current population of 83,618 (Prison Reform Trust, 2019). For such a small group the expenditure on securing and assessing them is many times more per prisoner than for those in the general prison population. From the levels of offending within the prison system and after release from prison within this group of offenders it appears that the amount of time and resources expended far outstrip the actual risk posed by the group.

As seen from the low levels of reoffending seen in released terror offenders the risk is generally very low. Most terror offenders are imprisoned for non-violent offending and it appears that the prison experience is sufficient in convincing them that progressing within the organisation or conducting a violent attack are not the way to achieve their political goals.

There are a small number of offenders however who will emerge from prison as dangerous or more dangerous than when they were incarcerated.

The key is to identify these high-risk offenders early on and use proven methods to decrease the risk they pose upon release. This sounds simple enough but as seen in the case of Khan, the London Bridge attacker, the system can be manipulated. It is very difficult to assess accurately what is really going in the mind of an individual. The fact that the system can be circumvented in this way means that it cannot ever achieve a zero-risk outcome.

Chapter 4

The Definition of Dangerousness

Following on from the discussion of risk and the problems with risk assessment in the previous chapter this chapter will discuss the concept of dangerousness. The dangerousness of an individual is that persons predilection to cause serious physical injury or lasting psychological harm to others (Baker, 1993). The use of dangerousness is mostly in the realm of mental health law but also to a slightly lesser extent in the criminal law. It must be stressed that the use of the term dangerousness within legislation is rare but this does not prevent the courts from utilising the concept of dangerousness when making its' decisions (Baker, 1993).

The use of the concept of the dangerousness of an individual within the judicial setting is problematic as there is no definitive definition of the concept (Baker, 1993). At the heart of the concept lies the assessment of the future risk of serious harm (Baker, 1993). This has similar problems to the assessment of risk as discussed in the previous chapter. Not only are the individuals trying to assess the risk of future offending but they are also trying to assess the level of injury which may be caused. With dangerousness the level at which the courts appear to take preventive action is that of causing serious physical or mental injury.

The aim of assessing the dangerousness of an individual is to take measures to prevent or reduce the harm caused by that individual. This appears to be a simple task on the surface but as seen with risk assessment in the previous chapter the ability to predict the future actions of an individual are lacking in reliability. A further factor in decreasing the reliability of the prediction of dangerousness is the lack of an accepted definition for the concept. If it is not even defined then how can a series of actors be able to be expected to come to an agreement on how dangerous an individual is.

One of the factors which is used to assess the future level of dangerousness of an individual is their history of violence. It is seen in many violent offenders that their criminal history is littered with violent offences and this is seen to be predictive of future violent offending. There are however problems with using the past actions of an individual to predict future actions. Amman, the Streatham attacker, was considered dangerous upon his release and went on to stab two individuals who survived before himself being shot dead by the police. His past offences although terrorist in nature were for non-violent offences. It could be argued that he was arrested before he could commit a violent terror offence and that all of the extremists in these groups will go on to commit violent terror offences. The evidence against this however is quite compelling and it has been seen that for every violent terrorist in a group there are many more who never commit violent acts (Silke and Morrison, 2020).

The dangerousness of the individual also differs from the risk they pose although in some instances the media and politicians appear to use the two terms interchangeably. The dangerousness of the individual refers mostly to the seriousness of the harm they pose when or if they reoffend. Whereas the assessment of risk is based on the likelihood of reoffending rather than the damage done when they reoffend. Further to this although an individual may pose a high risk of reoffending they may not have ever been or intend to be violent, an example would be an individual who raises funds for a terror group and is then convicted and intends to return to fund raising when released. On the other hand, an individual may be a highly trained and experienced bomber who is caught and decides while in prison to renounce violence as it is not going to achieve the aims of the group. While this individual is very dangerous and could kill or maim many if they were to return to bombing the risk of this is small as evidenced by the very low reoffending rate seen after the GFA in Northern Ireland (Horgan, 2014).

As seen from the examples above risk and dangerousness though used interchangeably by some are two very different concepts. With dangerousness there is the idea of how much

harm the individual could cause if they returned to using violence. When using dangerousness, it must be remembered that there is no psychological or clinical definition of the dangerous person or for dangerousness (Floud, 1982). As such the concept is very subjective and open use of it in sentencing decisions may lead to the overuse of the concept within the criminal justice system as a whole (Zimring and Hawkins, 1986).

Within the UK justice system, and most if not all other Western justice systems, is the belief that the offender must only be sentenced and punished for the crimes they have been proven to have committed. This means that the possible future offenses of the individual should not really play any part in deciding on the sentence which is to be handed down. This is how the system is supposed to function. However, it can be seen that for some offenders the possibility that they may pose a threat to society in the future does have some bearing on the sentence which is handed down. This is seen especially where the offender has committed an especially despicable crime or is responsible for a series of serious crimes such as rape or murder.

Dangerousness and Preventive Detention

As mentioned above the belief within the UK justice system is that the sentence to be served should be for crimes committed by the individual and the possible future offending of the individual should play no part. If crimes are committed after release then depending on the seriousness inquiries are made to see if the parole board or offender management service were at fault in their assessment of the individual. In most cases this is really the extent of examination of the rehabilitation of the individual whilst in prison.

For the most part the preventive detention of individuals within prison is not a factor in UK criminal justice. There are instances where some dangerous mental patients are held in

custody as they are perceived to be too dangerous to be left out in society. However, these individuals were held under the provisions of the Mental Health Act and even then they were not held indefinitely and had to be reassessed on a regular basis. In addition to this they were not held in prisons as they were not criminals but within secure mental health facilities.

This is not to say that preventive detention has not been used within the UK criminal justice system. In the aftermath of the attacks on 9/11 the UK introduced the Anti-Terrorism Crime and Security Act 2001 (ATCSA) of which Part IV allows for the preventive detention of suspected/known terrorists who are not British citizens when there is an observable state of emergency threatening the life of the nation (Walker, 2016). This was only implemented on a very limited number of occasions since then. In 2001 eight foreign nationals were detained in Belmarsh prison and until 2003 a further eight were also detained and held at Belmarsh.

The use of the ATCSA to detain these individuals was challenged a number of times as being in breach of the human rights of the individuals. These challenges went all the way through the UK justice system to the Supreme Court where it was decided that the use of Part IV was in contravention of Article 15 of the European Convention of Human Rights and the court quashed the order allowing the use of Part IV (Walker, 2016). At this point, the individuals were released but they had to comply with very strict restrictions upon their movements and access to digital media devices and the internet. Further to this they were also limited in who and the number of people they could meet with.

In contrast to the UK the Netherlands has not used any form of preventive detention against terrorists. All of those detained for terror offences within the Dutch prison system have been convicted of terror offences which have occurred or been stopped during preparation. The approach within the Netherlands is one of deradicalization and rehabilitation within society. At the time of writing there has not been a terrorist attack perpetrated within the Netherlands by a

released terror offender. A small number of released offenders have made their way to conflict zones such as Syria, Iraq, and Afghanistan.

Within the US the use of preventive detention was quite widespread in the period immediately post 9/11 but for US it was quite quickly reduced. There were over eight hundred detainees held at some point in Guantanamo in the time between 9/11 and the present. Of these supposed terrorists thirty-nine are still being held there at the time of writing and of all those held only two were ever charged with an offence and faced any type of court proceedings (Knappenberger, 2021). Those who were sent to Guantanamo were said to be ‘the worst of the worst’ and ‘the most dangerous terrorists alive,’ they were perceived as the most dangerous terrorists in the world (Senate Select Committee on Intelligence, 2014). When they arrived at Guantanamo the guards and interrogators quickly realized that most were nothing more than peasant farmers who had been rounded up by warlords in Afghanistan in order to collect bounties from the US government (Knappenberger, 2021).

Unlike with the UK system for those in Guantanamo there was no easy access to lawyers and a set and relatively easy route through the courts. In most cases these individuals would not be freed until they had spent more than a decade within a very brutalising system where torture was used to gain compliance (Slahi, 2021) and in an attempt to gain information (Senate Select Committee on Intelligence, 2014). No actionable intelligence was ever gained from any of the supposed terrorists who were subjected to the enhanced interrogation (torture) techniques as used in Guantanamo and the CIA black sites (Senate Select Committee on Intelligence, 2014). There was in fact no intelligence or evidence against most of the eight hundred detainees at Guantanamo and as mentioned above only two were ever charged and convicted of any offence.

In addition to the use of torture on dangerous individuals as a measure to counter terrorism there is also the use of drone strikes. Mostly the use of armed drones in the period post 9/11 is associated with the US however, the UK also has and has used armed drones. On the whole drone strikes are used against targeted individuals, what would have been called assassination in past decades. At present the Netherlands does not have armed drones though this may change in 2021 (efadrones.org, 2017). The Netherlands is in the process of purchasing a number of drones which are capable of being armed but the debate is still ongoing within the government as to whether these drones will be armed.

Drone strikes have been described as ‘surgical strikes’ in the past. This gives the impression of lethal ordinance being delivered with a level of precision which means only the targeted individual is hit. The use of the term ‘surgical strike’ in this context is misleading. Although the missile delivered by the drone may be delivered to a location with great accuracy, almost surgical precision, the resulting explosion is indiscriminate and will kill all within the lethal kill zone.

The use of drone strikes is justified by governments and security services on the argument that the individuals targeted were so dangerous to the nations that killing these individuals saves many lives. While there may be arguments that this is justified it is still extrajudicial killing in that the individual was not usually at the time of the drone strike in the act of performing a terrorist act. The use of drones to kill one’s own citizens is also very controversial in the US and UK. The argument against its’ use being that the nation should take all measures possible to ensure that their own citizens should be captured and returned home to face justice in court rather than be assassinated in a foreign land.

The use of preventive detention or targeted killing (assassination) is argued to be based almost totally on the perceived dangerousness of the individual. This however does not really

correspond with the fact that in most cases the detention without trial only applied to foreigners. Further to this the use of targeted killings is most commonly used against foreign fighters rather than citizens of the country targeting the individual. In the vast majority of drone strikes the US is the nation responsible with the UK having a much more limited drone capability. The Netherlands does not currently have any drones but this will change in 2021 but there is still debate on whether these will be armed or used purely for reconnaissance and surveillance purposes.

In addition to not using drones for targeted killings the Netherlands also was the only country of the three which did not use preventive detention. This may be because it is seen as one of the most liberal of the Western Democracies and the use of targeted killing and preventive detention may be seen to go against their liberal values. However, this could be argued against as the Netherlands has been seen to be becoming less liberal over the past few decades. In spite of this apparent hardening of views on the part of the Dutch it would probably cause far more debate and opposition within the Netherlands if the use of targeted killing of their own or foreign citizens were to be introduced.

The Perception and Assessment of Dangerousness

As stated above the terms dangerousness and risk are sometimes used interchangeably within the media and by politicians. There are however a number of differences in what these two terms mean and how they are assessed. In the first place the term risk is used as a measure of how likely something is to happen (Beck, 1992, Lupton, 2013). The term dangerousness however is the 'individual's propensity to cause serious physical injury or lasting psychological harm' (Baker, 1993). The meaning of the two terms can be seen to be very different.

Also, in contrast with the meanings of the two terms is the way they are assessed. Unlike with the assessment of risk there are no tools which have been developed to help measure how dangerous an individual is. There are no empirically tested tools such as the ERG-22+ or the VERA-2R which a practitioner can use to assist in the quantification of how dangerous the individual they are assessing is. The assessment of dangerousness is wholly based therefore on the clinical judgement of the individual performing the assessment. As was seen in the previous chapter the ability to accurately assess the level of risk when not utilising tools to aid in the assessment is not very good. Even when tools are used to aid in the process the assessment is far from being fool proof. This is the same with the assessment of dangerousness.

Unlike the assessment of risk which has tools to aid in the process the assessment of dangerousness is purely a clinical opinion. With such a subjective process the individual may be assessed by a number of different clinicians and professionals with the result that all of the assessments may differ from being of no danger to extremely dangerous and everything in between. This is not a very desirable situation as the objective is to segregate the dangerous offenders from the non-dangerous ones. The wish is to concentrate the limited resources of the prison service on attempting to decrease how dangerous the individual will be when they are eventually released back into society. This cannot be done if the identification of dangerous individuals is very haphazard.

One of the main factors in the assessment of how dangerous an individual is their history of violence. In the case of the Streatham attacker although he espoused the use of violence and the desire to mount a violent attack, he had no previous history of actual violence. If he had been assessed by the parole board the concerns raised by the prison, security, and police forces regarding his desire to mount an attack would probably have meant he would not have been released. Further to this was the fact that throughout his sentence he refused to

engage with any deradicalization programs and made no attempt to distance himself from radical Islam.

In contrast The London Bridge attacker had engaged with the deradicalization process and appeared to have renounced radical Islam and the use of violence to achieve his aims. He was viewed as something of a ‘poster boy’ for the effectiveness of the program. There were however concerns raised before his release as it was suggested he was saying what the people in the program and probation service wanted to hear and still maintaining his links with the radicals. With hindsight he was in effect gaming the system.

As can be seen from these two examples the assessment of the dangerousness of an individual faces similar difficulty as the assessment of risk discussed in the previous chapter. In the case of the Streatham attacker, he was judged to be highly dangerous and was put under armed surveillance from the point of his release until he mounted his attack ten days later. Although he did manage to stab two people before being shot by the police their injuries were not life threatening or changing. There was the potential if the police had not been on scene that he may have killed someone, however. By contrast in the case of the London Bridge attacker he had been released for a period of months and although concerns had been raised MI5 had completed their assessment of him and he was deemed to be of low risk and dangerousness (BBC, 2021). During his attack he killed two and injured a number of others.

The assessment of dangerousness is very subjective and can change from low to high very quickly. Further to this because there are no empirically tested tools with which professionals can use to aid in the assessment they are relying solely on their own experience and impression of the individual. There are no set guidelines on what information the professionals need in order to make an assessment and many are based only on the face-to-face meeting between the professional and the individual.

Problems with the Assessment of Dangerousness

As stated above there are problems with the assessment of dangerousness. In the first instance there is the problem of differing definitions of dangerousness. The term dangerous/dangerousness is used throughout the criminal justice system and within the professions who may have dealings with this system. Within these different settings different definitions of the terms are used (Bennett, 2008, Lianos and Douglas, 2000). As such there can be confusion as to what exactly is meant when an individual refers to the dangerousness of an offender (Dershowitz, 1970).

Further to this confusion in defining dangerousness is what action is to be taken within the liberal democracies of the West in dealing with dangerous individuals. For the most part preventive detention is used very conservatively within the liberal democracies and mostly in the context of the mental health setting where an individual is detained to prevent them harming themselves or others (Dershowitz, 1970). With the rise in the perceived danger from Jihadist terrorism after the 9/11 attacks some nations have used preventive detention within the context of counter terrorism. Most notably with the US and UK. The caveats to this are for the most part that citizens of their own countries were not subject to preventive detention, though there are a small number of exceptions to this mostly within the US.

It has been seen in studies within the context of mental illness that the use of preventive detention because of the perceived dangerousness of individuals has led to many false positives (Dershowitz, 1970). In these cases, far more people are detained because of the perceived danger they pose than the actual danger they have posed when released. In these cases, it was seen that within the mental health context those who were deemed to be dangerous but were released did not cause any more harm than those who were not deemed to be dangerous and released (Dershowitz, 1970). The argument therefore that they were being held to protect the

public was false as those making the decisions on who to release and who to hold could not accurately discern who was dangerous or not.

As mentioned before the assessment of dangerousness is very subjective. There are no actuarial tools which the practitioner can use to aid in the assessment of an individual. Further to this it is seen in the assessment of risk that even with the use of actuarial tools the accuracy is not that much greater than without. As such the assessment of how dangerous individuals are is very haphazard and leads to many false positives where limited resources are used to detain individuals who could be restricted by other means.

Conclusion

The assessment of dangerousness in the context of counter terrorism has similar problems to the assessment of risk seen in the previous chapter. For the most part the assessment of dangerousness for the purpose of detaining an individual to prevent harm, either to themselves or others has been in the context of mental illness. One of the problems with this in counter terrorism is that very few terrorists are mentally unstable. For the most part they are noted for just how normal they are (Altier et al., 2014).

In most liberal western democracies, the use of preventive detention has not been an issue. Within the UK and the US however preventive detention due to the perceived dangerousness of individuals has been used. The notable factor in its' use however has been that those being detained have, for the most part been non-citizens of the nation holding them. Within the UK the use of preventive detention was challenged in the courts and it was found to be in breach of their civil rights. Those held were subsequently released but put under quite severe restrictions on where they could go, who they could meet and their access to the internet was also restricted or not allowed at all.

The assessment of how dangerous an individual is very subjective and it has been seen in studies that it leads to many false positives. These situations mean that individuals are held despite posing little or no danger to the public. Further to this the finite resources which could be concentrated on those who really to pose a danger to the public are diverted to those who do not pose this danger. In order to improve this situation, the assessment of dangerousness must be improved to identify those who really are a danger. There must be the development of tools which will help professionals to make a better judgement of how dangerous an individual is. Unfortunately, it has been seen with the assessment of risk that even with tools developed to assist they do not improve the accuracy of the assessment to any great extent.

Chapter 5

Desistance and Deradicalisation

This chapter will examine desistance and deradicalisation defining both terms and analysing the advantages and disadvantages of each. In addition, there will be discussion of the difficulties encountered when attempting to encourage individuals to desist from violent extremism or take part in deradicalisation programs. The chapter will conclude with a discussion of the implementation of deradicalisation programs within the prison systems of the UK, the Netherlands, and the USA.

Desistance

Desistance from terrorism occurs when the individual decides that the use of violence in order to achieve their goals is not a viable tactic. Many terrorists will desist from the use of violence of their own accord without being caught by the authorities for a number of reasons (Bjorgo & Horgan, 2009; Horgan, 2009). These may range from feelings that the use of violence is futile, they may become disillusioned by the actions they are being asked to take, or they may feel that the political ends may be met through means other than the use of violence (Bjorgo & Horgan, 2009; Horgan, 2009).

The decision to desist from terrorism does not mean that the individual no longer holds the beliefs that brought them into a terrorist organisation originally. It only means that they have decided that either violence is not the way to achieve their objectives or conditions have changed sufficiently that violence is no longer required in order to achieve their objectives. An

example of this would be the Good Friday Agreement (1998) in Northern Ireland which brought to an end the thirty years of 'the troubles'. It was seen by the leaders of the PIRA that although they would have been able to continue their campaign for the foreseeable future they were at an impasse with the government security forces and the continuation of violence would not achieve their objective of a united Ireland (Taylor, 2014).

From studies of reoffending rates of terrorists in Northern Ireland after the Good Friday Agreement they were at the level of 2.2% (Silke & Morrison, 2020). At the time there were no deradicalisation programs and the prisoners who were released had the benefit only of educational programs and those training programs to aid in gaining some kind of work after release. These offenders were released on the understanding that they would only remain free so long as they did not commit another offence and that the organisations they belonged to continue to work within the peace process (Taylor, 2014).

Deradicalisation

Deradicalisation involves changing the views held by an individual from extreme to a more moderate or mainstream outlook. This is a very complex undertaking and is also very hard to measure in any reliable way. Beginning in the early 2000's there was a shift in focus from diversion of individuals to attempting to change the ideas of those seen as having been radicalised. This is very controversial and the research thus far does not give any clear indication of its effectiveness or otherwise.

The current research is divided on the efficiency of deradicalisation programs and there is even some debate that programs may actually radicalise individuals (Horgan & Braddock, 2010). Unlike desistance where the aim is to show that violence is not the means by which the individuals or groups aims will be achieved the aim of deradicalisation is to change the thoughts

of the individual from those of the extremist to those of a more moderate or mainstream individual. Where desistance can be measured in the actions of the individual in refraining from violent acts there is no reliable way to measure or to even know what thoughts are going on in the mind of a particular individual.

Desistance versus Deradicalisation

There is much animated debate between practitioners and researchers as to which is the most desirable or achievable between desistance and deradicalisation (Cherney, 2020). On the one hand desistance appears to be the easier of the two to achieve. All that is required is to convince the individual that there are better ways than violence to achieve their goals. This however sounds deceptively easy, there is also the fact that desistance does not in any way temper the extreme views which led to the individual being incarcerated in the first place.

In many instances the roles of terrorists will change either through choice or circumstance and this can lead to disengagement (Altier et al., 2020). The role of an individual within an organisation can be rather fluid over time (Altier et al., 2020; Taylor, 2011). Most individuals involved in extremist groups do not have 'active' roles within the organisation such as being the shooter or bomber but have more supporting roles such as distributing propaganda, procuring weapons, gathering intelligence, or networking to gather more followers (Ebner, 2020). Despite this fact the common perception is that all terrorists are raving psychopaths whose sole aim is to kill as many people as possible. When terrorists have undergone psychological testing however they are seen to be normal, there are some terrorists who have mental health issues but this is not seen at any greater level than within the general population (Corner & Gill, 2020).

Taking Northern Ireland as an example there were no deradicalisation programs and none of the released prisoners were required to undertake any form of psychological evaluation or counselling after the Good Friday Agreement (Taylor, 2014a, 2014b). As stated above the reoffending rate of terrorist offenders was very low at only 2.2% (Silke & Morrison, 2020). During their time in prison most offenders had taken the time to educate themselves in subjects such as history and politics and had come to the conclusion themselves that violence would not achieve the aims of the organisation and there needed to be a political solution to the situation (Taylor, 2014a, 2014b). The end goal of the PIRA and their political wing, Sinn Fein is a united Ireland and they are trying to achieve this now through the political process. There are however some splinter groups within the Republican movement who see the use of violence as the only way to achieve a united Ireland.

The depth of an individual's belief in the cause can cause problems when assessing their risk of reoffending once they are released. There have been a number of individuals who have gamed the system such as Usman Khan, the London Bridge (2019) attacker (Silke & Morrison, 2020). Khan was viewed by many as a success story of the deradicalisation and educational programs run by Cambridge University in some UK prisons until he began his killing spree during an event promoting the very programs he had taken part in. During the attack Khan killed two and injured three others before being shot dead by police. There are also other examples of individuals gaming the system from the Netherlands and Saudi Arabia though in these instances these individuals went abroad to fight in Syria and the Yemen respectively (Renard, 2020).

One argument put forth against the release of terror offenders in the US is the high rate of reoffending (30.7%) seen in those captives released from Guantanamo (Renard, 2020). There are however a number of arguments against using these results. The first is that none of these individuals were ever convicted of a terror or criminal offence in a court of law before

being released from Guantanamo (Renard, 2020); secondly they were subject to torture whilst in the custody of the US (Sands, 2008; Senate Select Committee on Intelligence, 2014) and this has a history of further radicalising individuals (Silke, 2014); thirdly the evidence that led to these individuals being held at Guantanamo was far below that required within the legal system of the US (Renard, 2020), in some cases innocent individuals were detained by militias to get a bounty from US forces (Gibney, 2007); and finally of the 30.7% only 17% are known to have reengaged in terrorism with the remainder only suspected of having reengaged in terrorist activity (Renard, 2020). Further to this it must be stressed that at no time during their time at Guantanamo was any attempt made to encourage future desistance from terrorist activities or to deradicalize individuals.

The Use of Deradicalisation Programs in the UK

The use of deradicalisation programs in UK prisons is a controversial subject with some arguing that they have not been proven effective and may actually lead to the further radicalisation of individuals (Silke, 2011). The justification for this over time has however not been seen in the level of reoffending of those released, which has remained low in line with other Western European states and the US (Hodwitz, 2019, 2021; Silke & Morrison, 2020; Renard, 2020).

There are two notable cases of violent recidivism within the UK. These events took place just months apart and were the London Bridge attack by Usman Khan (2019) and the Streatham attack by Sudesh Amman (2020). There are some similarities between the cases but there are also great differences. The two most notable similarities are that both attackers were Jihadis and that the weapon of choice was knives. Khan was also wearing a fake suicide belt so it appears his intention was to keep attacking until armed police arrived and killed him,

which is how the incident ended. This was also the end result in the Streatham attack but for very different reasons. In the case of the Stratham attack Amman had only been released some ten days before launching his attack (Silke & Morrison, 2020) as opposed to Khan who had been released some eleven months before launching his attack. There is also a huge difference between the two attackers when considering their behaviour in prison. While Khan actively engaged in disengagement and deradicalisation activities while in prison and appeared to have changed his radical views Amman did not. The type of sentence which was given to Amman meant that he was compulsorily released at the midpoint of it and there was no assessment by the parole board or any way of keeping him in prison despite the fact that his radical views had become if anything more extreme during his time in prison. As such he was put under constant armed surveillance from the moment of his release, a very rare occurrence. Amman was not viewed in any way as having been reformed or being less dangerous than when he was sentenced, this is the reason armed officers were able to intervene within less than a minute of him launching his attack and killing him before he had the chance to injure more than two people, neither of them fatally.

In the case of Amman there can be no assessment of the efficacy of prison disengagement or deradicalisation programs as he had not engaged with them during his time in prison (Weeks, 2021). Khan on the other hand engaged willingly with these deradicalisation programs and was seen as a success story for the Cambridge University program 'Learning Together,' this was the reason he was given permission to attend the event in London despite his parole conditions restricting him from entering London (Silke & Morrison, 2020). The difficulty arises in assessing what is actually going on in the individuals mind rather than just what they are presenting to those assessing them (Horgan & Braddock, 2010). Despite his willing participation it was seen at the subsequent inquest that he was still assessed as being a danger to the public and of being involved in extremism (Lucraft, 2021).

For Khan it can be seen that he gamed the system to a certain extent by taking part in the deradicalisation programs and showing those assessing him what he thought they wanted to see. In other forums during his time in prison however it was seen that he was still involved in extremism and had not changed his radical views (Lucraft, 2021). This shows that despite a risk assessment of Khan as being still a radical with the possibility he would launch an attack after release he was still deemed appropriate for release by the parole board, from a Category A prison (the most secure class of prison in the UK) (Lucraft, 2021). The failure in this case cannot be laid only at the door of deradicalisation programs as there was clear evidence from other sources that Khan was still a high risk to the public.

The Desistance and Disengagement Program (DDP) in UK prisons was introduced in 2016 with the aim of providing those in prison or on parole with a variety of courses with the aim of leading to the desistance and disengagement of radicalism (Weeks, 2021). It must be recognised that desistance and deradicalisation are not linear processes and that deradicalisation may not be possible in all individuals (Weeks, 2021). Given that the DDP has only been in use for a relatively short period there has been no robust academic evaluation of its' efficacy. Reoffending rates of terrorists may give some indication however it must be taken into account that the reoffending rate of terrorists in Western Europe has been consistently low (Renard, 2020). Within the UK terrorists currently reoffend at a rate of 3% which is very low when compared to sex offenders at 13%, and the general prison population of 'ordinary offenders' of 48% (Weeks, 2021).

The Use of Deradicalisation Programs in the Netherlands

The Netherlands is generally viewed as being one of the most, if not the most liberal of the Western democracies and in a crude way this can be seen in the length of sentence given by different countries. The length of the sentence can be seen as a crude measure of the punitiveness of a criminal justice system. In the Netherlands the average length of a prison sentence for terrorism is just three years; the UK is seen as the most punitive in Western Europe and the average sentence is seven years (Statista, 2019); the US is generally viewed as the most punitive Western democracy and the average sentence for terrorist offences is thirteen years (Meleagrou-Hitchens et al., 2021).

As with the UK the management of released offenders comes primarily under the probation service. Team TER (Terrorists, Extremists and Radicals) is a group of specially trained probation officers who work with those convicted of or suspected of terror offences in the Netherlands. There is a multi-disciplinary approach to reintegrating terror offenders in much the same way as the MAPPA approach used in the UK.

Similar to the UK and other countries experience there was the realization in the Netherlands that deradicalisation was much more difficult to achieve and assess than disengagement or desistance (Schuurman & Bakker, 2016; Van Der Heide & Schuurman, 2018). When the first assessment of the program was made by Schuurman & Bakker (2016) the initial number of participants in the program was so low that the actions of one recidivist would have a large impact on the perceived level of recidivism. It must also be taken into consideration that the program at this point had not taken any participants from the beginning all the way through to the end of the process (Schuurman & Bakker, 2016). In the later study by Van Der Heide & Schuurman (2018) this was not the case but it still has to be considered that the numbers were still relatively small. This is a problem with all studies of this type as

the number of terrorists within society is always very small. The level of recidivism for terrorists within the Netherlands however remains very low at just 4.2% (Renard, 2020; Van Der Heide & Schuurman, 2018).

The Use of Deradicalisation Programs in the US

Unlike the UK and the Netherlands, the US does not have a standard deradicalisation program for use in its' prisons. Within the US justice system there are different types of prisons depending on jurisdiction, from county to state to federal prisons (Allen & Sawhney, 2019). The most notorious terror offenders are kept in federal prisons such as the Supermax Prison in Florence, Colorado. The other terror offenders will be spread throughout other prisons within the system depending on the nature of their offence and the threat they represent.

Unlike the UK and Netherlands, the US does not have a prison deradicalisation program or a systematic approach to reintegration and rehabilitation of terrorist offenders (Meleagrou-Hitchens et al., 2021). For the US terror offender any deradicalisation is achieved through their own efforts and not through any organised program. Despite the lack of any deradicalisation or desistance programs the reoffending rate for terror offenders is very low at only 1.6% in a study of terror offenders convicted and released post 9/11 by Hodwitz (2019) and 3.1% in an updated follow-on study in 2021. The levels of reoffending between the UK, Netherlands, and the US are all of a similar level.

With all three countries having such similar levels of reoffending despite the US making no effort to deradicalize its' offenders the question does arise as to the effect if any of deradicalisation programs which are used. An argument against this is the high level of reoffending seen in the report on the Guantanamo prisoners with 17% reoffending and a further 13.7% suspected of reengaging (Renard, 2020). However, it must be taken into consideration

that none of the Guantanamo prisoners were ever convicted in a court of law and that the evidence which led to their detention was scant to virtually non-existent (Gibney, 2007; Renard, 2020).

Conclusion

There is a very great difference between deradicalisation and desistance or disengagement. Though it would be ideal to deradicalize all terror offenders this is a very complex task and programs are not a one-size-fits-all but have to be tailored not only to the community they are being used in but also to the offenders themselves, a program used to deradicalize a Jihadi will not be suitable for a right-wing extremist. Further to this the use of deradicalisation programs may not be effective with those who deeply believe in their ideology as opposed to those whose beliefs are not so deeply held (Veldhuis, 2012).

A more realist approach may be to aim for desistance from violence where the object is not to change the cognition of the individual but the way they try to achieve their aims. In this way though the individual may still have the extreme ideas which drove them towards violent extremism they do not use violence to achieve their aims. It is seen in many cases that most terrorists will disengage at some point either voluntarily or involuntarily, through being caught and imprisoned (Horgan, 2009).

While deradicalisation or desistance programs may appear to be required there must be questions asked as to the efficacy of the program given that the reoffending levels between the three countries are very similar, despite the US having no prison programs for deradicalisation or desistance. Given the cost and complexity of these programs and the apparent lack of any tangible benefit from them in terms of measurable reductions in recidivism, it raises the question of whether the cost is worth it. Given the current financial situation could the funds used for deradicalisation programs be better used elsewhere?

Chapter 6

UK Sentencing Before the London Bridge & Streatham Attacks

This chapter will begin by describing the UK sentencing policy for terrorists prior to the London Bridge and Streatham attacks and then compare this with the measures brought in after the attacks. It will then conclude with an examination of the possible outcomes from the measures added.

Types of sentences

The UK justice system has a number of sentences to which offenders can be sentenced when convicted. Due to the problem of overcrowding, there is a determinate sentence where the offender is automatically released at the midpoint of the sentence. This was the type of sentence the Streatham attacker Sudesh Amman was given. The controversy in his case was that despite not engaging with any deradicalisation programs and openly espousing his radical beliefs while in prison the legal system had no way of keeping him in prison despite the clear danger he would pose when released (Weeks, 2021). Amman was not assessed by the parole board prior to his release and given the assessment of the prison, police, and security services it is hard to believe that if he had been he would have been released. This is not to argue that parole boards always make the right decisions, they do not but in this case it is hard to say that they would not have delayed his release. As there was no method of keeping Amman in custody and he clearly posed a threat the decision was taken to keep him under 24-hour surveillance upon his release. This in itself is unusual but even rarer is the fact that these officers were also armed. Only ten days after his release Amman went on to launch his attack and the officers

were able to intervene within minutes and Amman was only able to injure two members of the public before being shot dead.

The case of Usman Khan, the London Bridge attacker was similar in that he was released automatically at the midpoint of his sentence. However, Khan was initially sentenced to an indeterminate sentence. This means that there is no set length of time the individual must serve. They will be released when it is felt they are no longer a threat to the public. Khan and three of his co-defendants had been given this type of sentence and had appealed, the judgement of the appeal court was that Khan and the others did not pose any greater threat to society than the other defendants in the case and their sentences were therefore changed to determinate sentences. At the time of writing none of Khan's co-defendants have reoffended.

Changes to UK Sentencing After the London Bridge & Streatham Attacks

In the wake of the London Bridge and Streatham terror attacks there was a rush to implement new anti-terror legislation in the UK. This is not a uniquely British phenomenon as is seen in other countries after major events, in the US The Patriot Act was enacted in reaction to the 9/11 attacks (Pike, 2007). The problem with this type of reactive legislation, when it is rushed or fast-tracked through the legislative process is that it rarely makes for good law (Collier, 2020; de Londras, 2015; Pike, 2007).

The reason legislation usually takes so long to be implemented is that it is carefully debated over a prolonged period and then carefully drafted before finally becoming law. This is where rushed or 'knee-jerk legislation' is problematic. The effect of having legislation which has not been thoroughly debated, with all the potential pitfalls and hazards being investigated and where possible eliminated can lead to legislation which does not deal with the intended problem and may be open to abuse (de Londras, 2015; Pike, 2007). It has been seen in many

countries that poorly debated and drafted reactive legislation has led to poor law which has been used inappropriately. This leads to future legal challenges and in many cases to the law itself being struck down, an example of this being the EU Data Retention Directive which was implemented after the Madrid (2004) and London (2005) terror attacks (de Londras, 2015).

In the wake of the London Bridge and Streatham attacks The Terrorist Offenders (Restriction of Early Release) Bill 2019-2020 was introduced. It affects approximately thirty offenders who had already been sentenced when it was introduced. The Terrorist Offenders (Restriction of Early Release) Bill and the Counter Terrorism and Sentencing Bill (HL Bill 129-EL) will result in convicted terrorists not being released until having served at least two thirds of their sentence and having been assessed by the parole board, they would thus face harsher terms than other offenders in the general prison population who are mostly released automatically at the midpoint of their sentence due to the nature of their crimes.

The Effects of New Legislation on Terror Offenders

The raft of new anti-terror legislation which has been introduced in the wake of the terror attacks on London Bridge and Streatham has a number of effects on the offenders who are convicted of terror offences. In the first instance they are sentenced to serve longer than before with those convicted of serious offences serving a minimum of fourteen years. In addition to this the offenders will not be released at the halfway point of their sentences. Unlike most other offenders terror offenders will have to serve a minimum of two thirds of their sentence before being considered for parole. Also, unlike other offenders where release at the halfway point is automatic there will be no automatic release for terror offenders. They will all be assessed before the parole board prior to release, and therefore release is not guaranteed.

Additionally, there will also be more stringent surveillance after release with more licence conditions.

With all of these changes to the sentencing of terror offenders they will now be treated even more differently than 'ordinary' criminals. The length of their sentences will be increased. This is more in line with the punitive approach of the US justice system where the average length of sentence for a terror offender is thirteen years (Meleagrou-Hitchens et al., 2021). Also, the terror offenders will not be automatically released at the halfway point of their sentence but must serve a minimum of two thirds of their sentence before becoming eligible for parole.

After the offender is released on parole they will then be subject to more invasive surveillance by the probation, police, and security services than prior to the London Bridge and Streatham attacks. In addition to this they will also be subject to more licence conditions than previously. Not only will they be given a greater number of conditions but they will also be more restrictive.

Conclusion

The changes in sentencing after the London Bridge and Streatham attacks mean that terror offenders will be serving longer sentences than before. They will also not be eligible for automatic release until they have served their full sentences. Unlike the majority of other offenders, they will need to be assessed by the parole board, this is not necessarily a bad thing from a security standpoint however, it must be remembered that parole boards are human and make mistakes. Furthermore, it will be possible that some offenders may game the system. When they are released they will be under more stringent observation and there will be an increased number of licence conditions which will be more restrictive than previously.

Taking these factors into account when looking at the already very low level of reoffending within this category of prisoners it does appear that the changes in sentencing and licencing conditions after release are something of an overreaction to the actual level of recidivism. All of these conditions will come at increased expense to the taxpayer. Given the low level of recidivism the greatly increased cost of these measures does not appear to give any great advantage in reducing risk or reducing the already low level of reoffending.

Chapter 7

Recidivism

This thesis has examined recidivism, beginning with the difficulties seen in defining recidivism. This problem with defining what recidivism is can cause difficulties when comparing the different studies on the recidivism of terrorists. It was seen that for the most part the studies conducted in the US and Western Europe the levels of recidivism seen were very low in comparison with the level of recidivism seen in ordinary criminals. The levels seen in the studies were all very low with the US having a level of 1.6% (Hodwitz, 2019), the UK having 3% (Silke, 2014) and the Netherlands with 4.2% (van der Heide and Schuurman, 2018). These levels would suggest that for the most part the risk of terrorists reoffending after release from prison is very low. There were seen to be other studies which appear to contradict these findings (Renard, 2020, Hasisi et al., 2019, Altier et al., 2019) however it was seen that these studies were measuring reengagement rather than recidivism and they were not relying on the reconviction of terrorists after a second offence. In the Guantanamo study the involvement of the detainees in terrorism was based on flimsy evidence and they were not convicted of any offences (Renard, 2020). The study by Altier et al (2019) also concentrated on reengagement and was seen not to be representative of terrorists in general the autobiographies were from a number of different groups and published over a long time period (1912-2011). This evidence therefore shows that the risk of recidivism in terrorists is very low.

Risk

The assessment of risk is not a simple task. For groups, the assessment is somewhat easier in that an entire group such as Al Qaeda can be designated as a terrorist organisation and deemed as a risk to the security and safety of those with contrary views. Membership of such a group exposes the individual to being deemed a risk and to possible prosecution for being a member of such a proscribed organisation. Many members of the PIRA and other paramilitary organisations were imprisoned for membership of proscribed groups during the Troubles in Northern Ireland.

The problems with risk assessment really come to the fore when dealing with the individual. Within the UK prison system there are relatively few terror offenders. They generally make up a group of less than 250 prisoners in a prison system with a maximum safe capacity of 76,000 and a current population of 83,618 (Prison Reform Trust, 2019). For such a small group the expenditure on securing and assessing them is many times more per prisoner than for those in the general prison population. From the levels of offending within the prison system and after release from prison within this group of offenders it appears that the amount of time and resources expended far outstrip the actual risk posed by the group.

As seen from the low levels of reoffending seen in released terror offenders the risk is generally very low. Most terror offenders are imprisoned for non-violent offending and it appears that the prison experience is sufficient in convincing them that progressing within the organisation or conducting a violent attack are not the way to achieve their political goals. There are a small number of offenders however who will emerge from prison as dangerous or more dangerous than when they were incarcerated.

The key is to identify these high-risk offenders early on and use proven methods to decrease the risk they pose upon release. This sounds simple enough but as seen in the case of

Khan, the London Bridge attacker, the system can be manipulated. It is very difficult to assess accurately what is really going in the mind of an individual. The fact that the system can be circumvented in this way means that it cannot ever achieve a zero-risk outcome.

The assessment of dangerousness in the context of counter terrorism has similar problems to the assessment of risk. For the most part the assessment of dangerousness for the purpose of detaining an individual to prevent harm, either to themselves or others has been in the context of mental illness. One of the problems with this in counter terrorism is that very few terrorists are mentally unstable (Corner & Gill, 2022). For the most part they are noted for just how normal they are (Altier et al., 2014; Corner & Gill, 2022).

In most liberal western democracies, the use of preventive detention has not been an issue. Within the UK and the US however preventive detention due to the perceived dangerousness of individuals has been used. The notable factor in its' use however has been that those being detained have, for the most part been non-citizens of the nation holding them. Within the UK the use of preventive detention was challenged in the courts and it was found to be in breach of their civil rights. Those held were subsequently released but put under quite severe restrictions on where they could go, who they could meet and their access to the internet was also restricted or not allowed at all.

The assessment of how dangerous an individual is, is very subjective and it has been seen in studies that it leads to many false positives. These situations mean that individuals are held despite posing little or no danger to the public. Further to this the finite resources which could be concentrated on those who really to pose a danger to the public are diverted to those who do not pose this danger. In order to improve this situation, the assessment of dangerousness must be improved to identify those who really are a danger. There must be the development of tools which will help professionals to make a better judgement of how dangerous an individual

is. Unfortunately, it has been seen with the assessment of risk that even with tools developed to assist they do not improve the accuracy of the assessment to any great extent.

Deradicalisation & Desistance

There is a very great difference between deradicalisation and desistance or disengagement. Though it would be ideal to deradicalize all terror offenders this is a very complex task and programs are not a one-size-fits-all but have to be tailored not only to the community they are being used in but also to the offenders themselves, a program used to deradicalize a Jihadi will not be suitable for a right-wing extremist. Further to this the use of deradicalisation programs may not be effective with those who deeply believe in their ideology as opposed to those whose beliefs are not so deeply held (Veldhuis, 2012).

A more realist approach may be to aim for desistance from violence where the object is not to change the cognition of the individual but the way they try to achieve their aims. In this way though the individual may still have the extreme ideas which drove them towards violent extremism they do not use violence to achieve their aims. It is seen in many cases that most terrorists will disengage at some point either voluntarily or involuntarily, through being caught and imprisoned (Altier et al, 2022; Bjorgo, 2008; Horgan, 2009).

While deradicalisation or desistance programs may appear to be required there must be questions asked as to the efficacy of the program given that the reoffending levels between the three countries are very similar, despite the US having no national prison programs for deradicalisation or desistance. Given the cost and complexity of these programs and the apparent lack of any tangible benefit from them in terms of measurable reductions in recidivism, it raises the question of whether the cost is worth it. Given the current financial situation could the funds used for deradicalisation programs be better used elsewhere?

Sentencing

The changes in sentencing after the London Bridge and Streatham attacks mean that terror offenders will be serving longer sentences than before. They will also not be eligible for automatic release until they have served their full sentences. Unlike the majority of other offenders, they will need to be assessed by the parole board, this is not necessarily a bad thing from a security standpoint however, it must be remembered that parole boards are human and make mistakes. Furthermore, it will be possible that some offenders may game the system. When they are released they will be under more stringent observation and there will be an increased number of licence conditions which will be more restrictive than previously.

Taking these factors into account when looking at the already very low level of reoffending within this category of prisoners it does appear that the changes in sentencing and licencing conditions after release are something of an overreaction to the actual level of recidivism. All of these conditions will come at increased expense to the taxpayer. Given the low level of recidivism the greatly increased cost of these measures does not appear to give any great advantage in reducing risk or reducing the already low level of reoffending.

Implications

The implications of the evidence suggest that in the Western democracies the level of recidivism in terror offenders is very low. Those terror offenders who do reoffend after release are outliers within the much larger number who do not. Given the small number of recidivists it can be deduced that they are in the small minority of ‘true believers’ in their cause. This group are not responsive to deradicalisation or desistance programs and forcing them to undergo such programs whilst in prison may only make them even more extreme in their beliefs.

While in prison greater effort should be made to identify and assess the risk and dangerousness of the small number of offenders who may go on to reoffend when released. To this end greater emphasis should be put into developing reliable tools which can accurately assess the risk and dangerousness of an individual than the more punitive elements of the justice system. This is not to say that there should not be a punitive element to sentencing however, there is no evidence that longer or more punitive sentences result in no or less recidivism.

From the comparison of the criminal justice systems in the Netherlands, UK, and the US it can be seen that the system of the Netherlands is the least punitive followed by that of the UK with the most punitive being that of the US. Given that the average length of prison sentence is over four times greater in the US than the Netherlands and that the length of sentence in the UK falls roughly in the middle of both it could be expected that if length of sentence was a factor in reducing recidivism there would be quite a variation in levels of recidivism with the Netherlands having most and the US having least and the UK being roughly in the middle of the two. This argument however takes only a very superficial look at the multiple factors which effect recidivism levels. When comparing the levels of recidivism in general it is seen that for non-terror offenders the rate ranges between 40-60% for most Western liberal democracies. How punitive the legal system is does not generally have that much of an effect on the levels of recidivism. This is also seen with terror offenders where lengthy prison terms do not have that much of an effect on reducing levels of recidivism, the levels within all the Western democracies are low generally being less than 10%. Of those who do reoffend after release it is also seen that roughly half will reengage with violent extremism while the other reoffenders will do so for personal gain rather than political ends.

The cost of detaining individuals for lengthy sentences is also a consideration. The annual cost of keeping individuals in prison are 52,717.97 Euros for the UK; 54,488.40 Euros for the US; and 73,967.25 Euros for the Netherlands. On top of these costs are the specialised

courses for deradicalisation and desistance for terror offenders in the UK and the Netherlands. In the current economic climate, there must be some consideration of the benefit to society of the cost of keeping these individuals incarcerated for lengthy periods of time. This can be measured crudely by the levels of recidivism. In all three countries the levels of recidivism are uniformly low with the US having a level of 3.1% (Hodwitz, 2021), the UK having 3% (Silke, 2014) and the Netherlands with 4.2% (van der Heide and Schuurman, 2018). For annual cost, the Netherlands appears to be costing more and having a lesser effect on recidivism with the highest rate of the three countries and the highest cost. However, this only takes account of the annual cost without taking into consideration the length of the sentence. The average length of the prison term for terror offences in the Netherlands is three years, followed by the UK with seven years (Statista, 2019), and the US with thirteen years (Meleagrou-Hitchens et al., 2021). Taking this into account the Netherlands actually keeps the offenders incarcerated for less than a quarter of the time of the US, and at less than a third of the cost to the taxpayer overall for roughly the same level of reoffending. This would suggest that from a cost benefit perspective the length of the punitive portion of a sentence does not have that much of a contribution to reducing reoffending. From a cost perspective the UK and US are paying a far greater cost than the Netherlands for very little benefit in reducing recidivism.

Within all three justice systems there appears for the most part to be a scattergun approach to dealing with the problem of terrorist recidivism. That is the targeting of individuals on the grounds of risk and dangerousness does not appear to be happening for the most part. In the UK, the London Bridge attacker Usman Khan was seen by those conducting the deradicalisation and desistance program as being a reformed character and no longer holding the extremist beliefs which led to his being incarcerated. At the same time, it was seen by the prison officers that Khan was an active extremist within the prison wing. This was also evident to a certain extent after his release as he was reported as a threat to the Security Service (MI5)

and was investigated by them as a possible threat. Khan was still under the supervision of the MAPPA authorities, of which MI5 is one, but the other authorities were unaware of the possible threat posed by Khan. When he launched his attack the MI5 investigation into him was going through the final administrative process of being closed having not found him to be a threat. The process of evaluating Khan as a threat failed.

In contrast the Streatham attacker Sudesh Amman did not engage with any deradicalisation programs while in prison and made no real attempt to hide his extreme beliefs. As a result, the quite unusual step was taken of having him under constant armed surveillance from the moment of his release. He was deemed to pose such a threat and it must be assumed that before launching his attack if he had been seen breaking any of his licence conditions or any other laws he would have been immediately arrested and returned to prison. Amman was an overt 'true believer' and as such even if he had engaged with a deradicalisation program it is unlikely he would have changed his views. The difficulty in assessing the threat or level of dangerousness of an individual is that their actions cannot be taken at face value.

Conclusions

The concerns raised within the UK after the London Bridge and Streatham terror attacks and within the US with the upcoming release of many post 9/11 terror offenders (Hodwitz, 2019) appear not to be as high as initially feared when all of the evidence is evaluated (Silke & Morrison, 2020). On examining the levels of recidivism in terror offenders it is seen that they are very low. This is not to say that the threat should be ignored it should not. However, the blanket use of increased sentence length and more restrictive licence conditions after release do not appear to have any real benefit in terms of safety for the public or of value for money for the taxpayer.

The use of deradicalisation programs in prison do not appear to have any notable effect on recidivism. This is evidenced by the uniformly low levels of recidivism seen in the three countries studied. The US does not have any national deradicalisation program for its' prisons and the level of recidivism when compared to the UK and the Netherlands is broadly similar. Programs which would help terror offenders to reintegrate into society would appear to have more effect than deradicalisation and desistance programs.

In order to target finite resources more efficiently it is recommended that less emphasis be put on deradicalisation and desistance programs. The punitive element of the sentence also appears to have little effect on recidivism for most terror offenders. The main concentration of effort should be the assessment of risk and dangerousness of the individual offender. Those who pose the highest risk of reoffending should be the ones who are targeted with longer sentences and more restrictive measures once released. In order to improve the targeting of resources more training of individuals is required in order to be able to reliably assess the level of risk and dangerousness posed by an offender.

The research and development of tools to aid in the assessment of risk such as the ERG 22+ and the VERA-2 needs to be increased in order to increase the efficacy of them in accurately predicting risk. Although no tool will be infallible the aim is to keep developing the tool to improve reliability. There is also the problem that many assessments of risk are subjective and can vary widely, The London Bridge attacker was deemed not to pose a threat by MI5 shortly before launching his attack. Although risk will never be totally eliminated it can be minimised. The 'knee-jerk' response to attacks like London Bridge and Streatham where politicians and police need to be seen to be doing something may give some measure of security to the public however the reality is they do not have any real effect on reducing the likelihood of another attack occurring.