



Counter-terrorism and civil society

What are the effects of the 'War on Terror'
and counter-terrorism measures on civil society?



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This report is a summary of the presentations and discussion at the seminar which took place on 6 March 2009 at NCVO.

The seminar was the last in a series of seminars jointly organised by NCVO and the ESRC Non-Governmental Public Action (NGPA) research programme at the Centre for Civil Society (LSE).

The seminar series aimed to:

- Promote dialogue, exchange and learning between academics and practitioners bringing the findings of the NGPA research programme closer to civil society organisations in the UK
- Promote international dialogue, exchange and learning bringing lessons from abroad closer to civil society organisations in the UK
- Promote learning drawn from examples of civil society in the Global South.

It brought together practitioners, academics and policy-makers and provided them with the opportunity to share insights and take part in a stimulating discussion.

In a nutshell

Key points in first presentation

- The legacy of the 'War on Terror' is embedded in legislations, institutions and practices across the globe.
- In both the UK and the US, there has been a mix of 'hard' and 'soft' measures to counter terrorism.
- The Charity Commission's approach to the presumed relationships between charity and terrorism is much more measured and nuanced than in the US.

- In the UK and in the US, civil society responses have been mainly from human rights activists and Muslim groups.
- The silence of mainstream civil society organisations to the targeting of Muslim groups raises important questions concerning their independence and their willingness to speak out.

Key points in second presentation

- Contesting border technologies requires uncovering the multiple ways in which these technologies have entered everyday lives, and then making these more visible.
- Campaigning against smart border technologies is increasingly a matter of choosing emblems or cases which will capture the public's attention.

Introduction

The 'War on Terror' has led to a range of counter-terrorism measures across the globe. These have included the introduction of anti-terror laws; changes in reporting requirements for civil society organisations; and the increasing use of new border security technologies. In many countries, the impact of these measures on civil society and on citizens has been a source of great concern.

Several projects of the NGPA research programme have looked at these issues across the globe, focusing more specifically on countries such as Afghanistan, Kenya, India, the US and the UK.

This seminar aimed to:

- **Share insights on how global politics and international security are shaping local civil societies.**
- **Identify the responses of civil organisations to counter-terrorism measures and pressures.**
- **Explore how the findings of these projects are relevant to a broad spectrum of civil society organisations in the UK and what lessons can be learned.**

The speakers were:

- **Professor Jude Howell** (Centre for Civil Society) and **Dr Jeremy Lind** (University of Sussex) who examined the effects of counter-terrorism measures on the spaces, organisations and actors of civil society in the UK and in the US.
- **Dr Alex Hall** (Durham University) who explored the ways in which border security technologies shape and are being shaped by civil society.
- **David Walker** (Charity Commission) who drew out implications for policy and practice.

Dr Karl Wilding from NCVO chaired and facilitated the seminar.

Key points in third presentation

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| <ul style="list-style-type: none">■ New and imaginative forms of public action have emerged to contest border technologies and the idea that we live a securable and securitised world.■ Some of these new forms of public action have included the use of art, which has the capacity to highlight what usually goes unnoticed and make people think differently. | <ul style="list-style-type: none">■ Political statements sometimes overstate terrorist abuse of charities.■ The Charity Commission's assessment is that the terrorist links or abuse of charities is rare but is completely unacceptable.■ The role of the Commission is to raise awareness of the risk and to support charities in protecting themselves from harm and abuse. | <ul style="list-style-type: none">■ When there is an investigation, the aim of the Commission is to protect the charity and allow legitimate charitable activity to continue within the law.■ The Commission has produced a counter-terrorism strategy after a full public consultation and will continue to work with the voluntary sector for the development of its guidance. |
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Counter-terrorism measures and civil society in the UK and US

Prof. Jude Howell, Centre of Civil Society
and Dr Jeremy Lind, University of Sussex

■ Background

After 9/11 and the launch of the 'War on Terror', there was much concern, particularly amongst human rights organisations, lawyers and activists, about the impact of counter-terrorist legislation on civil liberties and human rights. However, little attention was paid to what was happening to civil society actors, particularly those organising around marginalised and vulnerable groups. Politicians were making disturbing connections between terrorist financing and charities, as Gordon Brown's statement in 2006 exemplifies:

"We can address directly three of the most dangerous sources of terrorist finance, the abuse of charities, the abuse of money service businesses and the abuse of financial transactions. We know that many charities and donors have been and are being exploited by terrorists".

In reality, there are very few cases where terrorist financing and charities are linked.

■ Three research propositions

Our research project aimed to analyse the effects of the global 'War on Terror' on aid policy and practice. It focused on three countries: Afghanistan, Kenya and India, but further fieldwork was carried out in the USA, Denmark and the UK.

The project set forth a number of propositions:

- The 'War on Terror' has brought civil society into the gaze of security institutions, and made a distinction between the 'good parts' and the 'bad parts' of civil society.
- The 'War on Terror' has deepened and intensified the relationships between development and security and generalised these to development aid policy in general, not just to conflict and post-conflict settings.

- The way the 'War on Terror' regime unfolds varies according to a range of contextual factors, which include the nature of relations between a specific country and the US, the historical relations between state and civil society and the responses of civil society.

■ 'War on Terror' regime

The project refers to the 'War on Terror' as a regime, characterised by a complex weaving of discourses, political alliances, policy and legislative shifts, institutional arrangements and practices.

The key features of this regime are that it has:

- served as a mobilising discourse that politicians and leaders have used to justify their political, geostrategic and military objectives;
- used militaristic language and rationalised extraordinary responses such as pre-emptive military intervention;
- provided a polarised vision of the world that pits barbarism against civilisation, modernity against backwardness, good against evil, freedom against oppression;
- led to a global political re-ordering with a new set of institutional and policy arrangements.

Even though the expression 'War on Terror' might not be used by politicians as much now as it has been in the past, the legacy of the 'War on Terror' is embedded in legislations, institutions and practices across the globe.

■ Counter-terrorism measures in the United Kingdom

In the UK, anti-terrorist legislation has been much debated, particularly control orders which enable the Home Secretary to impose an unlimited range of restrictions on people suspected of involvement in terrorism. The

police and intelligence services have been given greater power to investigate terrorism. There has also been increased surveillance and information gathering from communications companies and government files, the introduction of biometric passports on an experimental basis and the renewed debate about ID cards. The UK government has endorsed the recommendations of the Financial Action Task Force (FATF), the inter-governmental body whose purpose is the development and promotion of policies, both at national and international levels, to combat money laundering and terrorist financing, including one aimed specifically at civil society organisations.

After the London bombings in 2005, there was a shift in government policy with the introduction of 'soft' measures, which have included seeking out alliances with moderate communities, setting-up community-led working groups on preventing extremism, abandoning the expression the 'War on Terror' and preventing radicalisation. The Department of Communities and Local Government has invested significant sums of money on a range of initiatives. These 'soft' measures have acted as a counterpart to the 'hard' measures put in place after 2001.

■ Impact on UK civil society organisations

The project showed that in the UK and in many other countries, counter-terrorism measures have led to the construction of Islam and Muslims as problematic, and are partly responsible for the linking of Islam with terrorism by the media and politicians. There has been greater discrimination against Arabs, Asians and Muslims: police stop-and-search targeted at Muslims, for instance, has increased significantly, as has the surveillance of Muslim students and student groups at universities. The FATF recommendation on charities has affected organisations in a number of ways, particularly those with international partners that have had to re-examine their arrangements for transferring funds. In certain

cases, this has affected alternative remittance systems and the ability of diaspora groups to remit money to their home countries.

The Charity Commission has played an important role in investigating charities and checking that they comply with the rules. Since 2001 it has carried out various investigations into organisations alleged to have some association with terrorism. After investigation, this proved to be true only in the case of two organisations: the Tamil Relief Organisation and the Finsbury Park Mosque. Interestingly, following its investigation of the Tamil Students Union, the Charity Commission took action against one of the organisation's trustees, who was found to be on the designated list of terrorists, but not against the organisation itself. This shows a very different approach to the US. The Charity Commission's approach to these presumed relationships between charity and terrorism is a much more measured and nuanced approach. As one of the interviewees at the Charity Commission said:

"our approach is light touch regulation that will be effective, which does not overburden the sector. It is a risk based approach and our approach is miles away from the sledgehammer approach in the US, where if there is doubt, you just take out the charity".

In its investigations the Charity Commission tries to underline the benefits of charitable work to the government and maintain public confidence in the sector.

■ Civil society responses

In the UK as in many countries, civil society responses have come mainly from human rights groups, activists and lawyers who, along with Muslim leaders and organisations, have challenged some of the legal problems and the excesses of 'hard' measures. Muslim charities like Islamic Relief have played an important role in setting up the Humanitarian Forum that aims to strengthen the capacity of Muslim organisations in the UK and in Muslim majority countries, with regards to governance and transparency. Humanitarian NGOs in

conflict zones have raised concerns about the impact of the FAFT recommendations on their activities. Médecins Sans Frontières has continually highlighted the effects of increasing military involvement in the delivery of aid on aid workers.

Mainstream civil society, which is primarily engaged in service delivery and funded by governments and donors has, until fairly recently, not been very vocal about what has been happening in relation to the 'War on Terror'.

It was only once the 'War on Terror' infrastructure began to impinge upon the voluntary sector in the UK that mainstream organisations started to take action. For example, when the Home Office and the Treasury launched their review of the relationship between charities and terrorism, NCVO acted very quickly to set up a panel advisory group to produce a shadow report. This was an important step, because until then it had felt almost as though the effects of counter-terrorist strategies on marginalised groups and Muslim communities was somehow separate from and not part of the voluntary sector or part of civil society.

■ Counter-terrorism measures in the United States

As part of its 'War on Terror', the US government launched a broad offensive against what it deemed to be the 'bad parts' of civil society, i.e. organisations allegedly acting as potential financiers and recruiters for terrorist causes. Anti-money laundering and counter-terrorism financing measures have been a significant aspect of the US government's scrutiny of civil society. President Bush used extraordinary powers to expand the freezing of assets of terrorist organisations and their financiers.

Other new regulatory requirements on civil society have arisen from the Patriot Act that imposes stiff civil and criminal penalties for providing material support or resources to terrorist organisations. The Act gives powers to the executive branch to freeze or block the property or assets of persons or organisations suspected of supporting terrorism. The Treasury has shut down and designated seven US charities and foundations as supporters of terrorism, but to date only three have faced criminal prosecution and none have been convicted. Nearly all of the US charities that have closed, have been Muslim organisations. This includes the Holy Land Foundation which was the largest Muslim charity in the US.

■ Civil society critiques and reactions

Civil society has launched a number of critiques against these various counter-terrorism measures. Groups working overseas have argued that the wide meaning of what constitutes material support threatens their work. The prohibition in the Patriot Act to provide 'expert advice or assistance' was challenged by the Humanitarian Law Project, and was ruled unconstitutional by a federal judge in 2004.

US civil society organisations and groups have criticised the lack of due process protections in the Patriot Act, which does not, for instance, require criminal charges to be filed prior to administrative confiscation of an organisation's assets. There is also no administrative requirement to inform the group being investigated that its assets will be seized and no requirement to provide a statement of reasons for either the designation or investigation.

The other significant measures taken by the US government to prevent the misuse of charities have involved a set of financing guidelines for charities. These guidelines on governance transparency and grant-making were devised by the Treasury department without prior consultation. They imply that

charities are obliged to carry out the burdensome and costly work of intelligence gathering themselves and run the risk of damaging relations with their grantees, both within America and overseas.

Anti-terror measures have been used to target and intimidate dissenting voices. For instance, political leaders in the Republican Party accused unions of endangering national security in the aftermath of 9/11 and demonised public employees who did not accept significant wage and benefit cuts, calling them unpatriotic. The FBI enhanced its monitoring of political groups with no clear association or connection to national security issues. Amendments to the Foreign Intelligence Surveillance Act, under the Patriot Act, have expanded the authority of federal agencies to conduct warrantless electronic surveillance if there is a reasonable belief that one of the parties involved is overseas and is suspected of being connected with Al-Qaeda. Muslim advocacy groups have been particularly targeted. For instance, the Council on American Islamic Relations, which is the leading organisation in Washington that lobbies on behalf of Muslim Americans, has been accused by the Republicans of being an extremist Islamic group and of having ties to both Hezbollah and Hamas.

Civil society responses

These measures have had a chilling effect on civil society in the United States, especially for Muslim groups. As in the UK, the responses of mainstream civil society have been slow to emerge. This partially reflects the political atmosphere in the immediate aftermath of 9/11. The few dissenting voices have since become more vocal and debate has centred on opposing the use of government's power. Unlike in the UK, there is still a lack of debate on the 'War on Terror', the need for counter-terrorism measures or indeed the causes of terrorism.

There has been particularly acute pressure on Muslim groups, but there has been a lack of

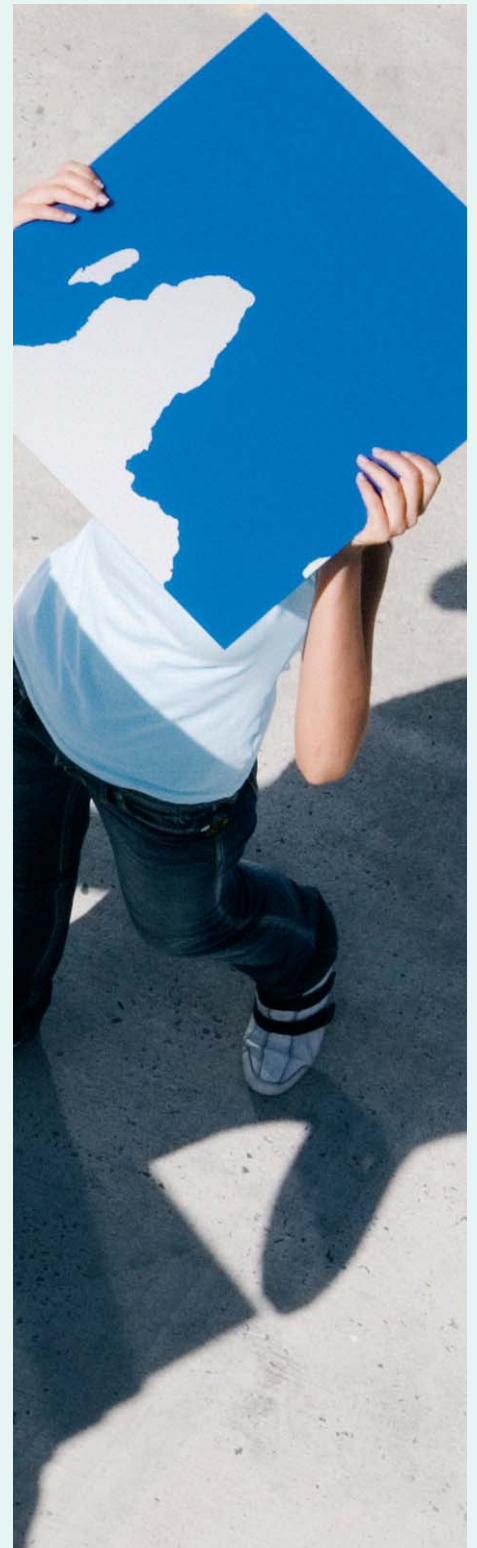
response to the political threat to the sector by a wider spectrum of civil society organisations. It was only when various counter-terrorism measures were being used amongst a broader range of organisations that action was taken. In 2005, for instance, a working group of charities and advisors released the principles of international charity as an alternative to the Treasury department's own guidelines. Other initiatives have involved private foundations publishing a handbook on counter-terrorist measures, as a way of promoting compliance, and pressure groups actively organising around the rights of charities.

A new political organising within US Muslim communities has emerged. The Council for American Islamic Relations, for example, has expanded significantly since 9/11. There are also signs of renewed vigour within the community of civil rights and civil liberties groups. The membership of the American Civil Liberties Union (ACLU) has more than doubled since 9/11.

Concluding reflections

The research found that in both the US and UK, there is a mix of both 'hard' and 'soft' measures being used to respond to the perceived threat that charities are misused to support terrorism. In the UK, the role of the Charity Commission as an independent charity regulator seems key. The US has adopted a very heavy-handed approach, which hopefully will change with the Obama administration.

The effects of the post 9/11 regime have been felt most acutely within Muslim communities and groups, but not exclusively, as witnessed by groups working in conflict areas overseas or with migrants and asylum seekers. The silence of mainstream civil society organisations to the targeting of Muslim groups both in the UK and the US, raises important questions concerning the impact of government funding on civil society's independence and therefore the willingness of civil society organisations to speak out.



Contesting borders: public action and the technologies of the 'War on Terror'

Dr Alex Hall, University of Durham

The Contested Borders project, led by Louise Amoore at Durham University, explored how the regime of the 'War on Terror' has turned to smart technologies to securitise the border. It aimed to understand the effects of these new technologies on non-governmental public activity.

Examples of smart border technologies

- **Example 1:** X-ray backscatter technology is used to screen bodies at airport security checkpoints without travellers being aware of the type of image being produced of them.
- **Example 2:** A Somali resident of London is not able to electronically send money to his family in his country because he has the misfortune of sharing two of his names with the former leader of Hamas, and has been blacklisted.
- **Example 3:** Personal data of travellers are gathered by the e-Borders programme of the new National Border Targeting Centre in Manchester in order to produce profiles of behaviours and travel patterns and to pre-empt future risk.

The question of how we define the contemporary border in a digital world is an open question. The border's effects are increasingly embedded in everyday life – in credit card transactions, daily journeys and ticket purchasing. Watch-listing, profiling, inter-agency data sharing and automated targeting often lack a physical and visible expression, which means that contesting these technologies and their impact can be difficult. The work of contestation and critique requires uncovering the multiple ways in which border technologies have entered everyday lives, and then making these more visible.

■ Circling the issue, capturing the imagination

Contesting border technologies becomes more than ever a matter of choosing emblems or cases which will capture the public's attention. Advocacy groups such as the Electronic Privacy Information Centre (EPIC) or Liberty in the UK and the American Civil Liberties Union (ACLU) in the US have been strategic in their choices in order to denounce the wider implications of security technologies.

In the UK, for instance, advocacy groups have contested government plans to introduce ID cards. In many ways, ID cards are one aspect of a much broader governmental turn to personal data, yet the campaigns against them have allowed advocacy groups to open up the debate to a wider set of questions about the kind of society people want to live in: they act as a succinct 'way into' a complex set of technological, political and ethical questions.

Privacy and rights to human dignity are a way of mobilising the general public, as can be seen in the work of civil liberties lawyers and activists around the new airport backscatter scanners. The use of backscatter has been described as a virtual strip search that shows disregard for passengers' privacy rights. Framing ID cards or backscatter scanners as a matter of privacy or civil liberties cuts to the heart of the debates about who has the right to have rights, how rights may be protected and who has the recourse to the rule of law.

The central critical juridical questions have tended to debate how, or whether, images collected and seen on the screen at the checkpoint can be made to comply with data protection laws, and whether there is adequacy in the treatment of data by public authorities. Yet, the research found that it is quite possible for technologies like backscatter to fulfil the legal requirements of privacy and data protection. Backscatter routinely captures images of a 'naked' body at airport security and this exposure is deemed acceptable because the images are viewed in another room. There is something about the

effects of technologies like backscatter, that remains unshaken by interventions which use traditional concepts of privacy or rights as critical tools. The task for public action is to keep pace with the ways in which these smart technologies are altering the way we think about 'privacy' and 'dignity'.

■ Drawing the line: spaces of political action

The project explored the spaces of public contestation and public critique and found that the 'War on Terror' had led to the demarcation and reordering of public spaces, spaces which have become increasingly constricted. For instance, in the exclusion zone surrounding Parliament Square, within which unauthorised demonstrations are no longer allowed, a taxi with an advertisement for the Trusted Borders Consortium (responsible for the e-Borders programme) can circulate freely, but the implementation of the programme cannot be contested in this space without prior permission.

When the border is increasingly embedded into the transactions and routines of everyday life, the physical border frontier becomes less significant in security terms. However, the symbolic practice of contesting at the border retains its importance, and borders themselves can be the target of political actions.

The 'No Border' network, for instance, supports freedom of movement by coordinating international border camps at the border or near immigration detention camps. The work of groups like 'No Borders' shows that the technologies of the 'War on Terror' are producing and shaping civil political action, creating multiple publics who engage in a political response to its securitised practices. Their actions are made possible through the coalition of diverse groups that merge, coalesce or collaborate around particular issues.

Broad topics like privacy and civil liberties unite often diverse political action, redrawing the lines between various interest groups, sometimes in unlikely ways.

■ Engaging audiences

There are new and imaginative forms of public action emerging around issues relating to border technologies that raise awareness in different ways. For instance, in 2007 the artist Mark Wallinger installed at Tate Britain a reconstruction of Brian Haw's five-year peace protest outside the Palace of Westminster, which was ended by the 2006 Serious Organised Crime & Police Act that prohibited unauthorised demonstrations within the Parliament Square exclusion zone. Art, resistance, and art about resistance merge in this installation. For the artist, interrupting people's experience of the gallery creates an awareness of the border that might not otherwise be seen as a political act. Art provides the opportunity to interrupt what normally goes unnoticed. However, the relationship between politics and art is not one that is easily established. With Wallinger's exhibition, for example, the spatiality of the political act is at issue. When a protest is brought inside a space of art, are its political effects altered? does it still 'count' politically?

Security practices in the 'War on Terror' can be seen as rituals of security that are increasingly part of everyday life (e.g. the swipe of the Oyster card, the handing over of the passport, the hands held up in the gesture of surrender at security checkpoints). Art can be effective in 'arresting' these rituals and making us see them in a different light. The US artist Megan Trainer, for example, uses in her work radio frequency identification (RFID) chips increasingly employed to encode information in passports and 'smart cards'. She embeds these chips into objects and invites people to

move them to trigger sounds. In one of her installations exhibited in a vacant office space close to Ground Zero in New York, the enchanting potential of the RFID chips was placed in sharp contrast to the horrors of the terrorist attack. The evacuated spaces of Manhattan were reclaimed and transformed by people's playful encounters with technology. Interestingly though, Trainer refuses to outline a clear political position on RFID technologies, yet her art has clear critical potential. She opens a space of uncertainty and surprise which contrasts with the current emphasis on security, identification and safety. Her work shows that art has the capacity to make people think differently without proposing an easy resolution or asking them to decide whether things are definitely good or definitely bad, right or wrong.

■ Conclusion

The interventions of artists, advocates and groups like 'No Borders' constantly seek to trouble the contemporary border and the idea that people can live in a perfectly securable or securitised world. An issue in all of the interventions observed by the project is the way in which they circle a much broader and nebulous question in multiple ways: what kind of world do we want to live in? This question is at heart of the efforts of civil society to engage with people and make them think about the technologies of the 'War on Terror' that go often unnoticed in everyday life. It is harder to address when the border space is no longer simply at the geopolitical frontier and increasingly embedded in our daily transactions and journeys. Civil society groups and organisations are trying to make visible what has threatened to become more and more invisible.



Counter-terrorism measures and civil society

David Walker, Charity Commission

This response is very much from the perspective of the Charity Commission, the regulator of charities in England and Wales. The two previous presentations have highlighted how the government is stuck between a rock and hard place because it has a responsibility to both protect citizens and to uphold human rights and civil liberties. It is a challenging situation to be in and it is very important to have a continued public debate on the issues that are related to terrorism and counter-terrorism.

How can charities take part and influence this debate?

The advancement of human rights is a legitimate purpose for charities and charities can engage in campaigning and political activity. These are recent changes made by the Charity Commission to reflect wider changes in society.

The advancement of human rights as a charitable purpose was recognised in 2002. There are many ways in which charities can promote human rights on a practical level. This can include monitoring abuses to raising awareness, public education, as well as commenting on proposed legislation and providing technical advice to government and others on human rights matters.

With regards to campaigning and political activity, the Commission has updated its guidance. Promoting and defending human rights is consistent to approaches to political activity and campaigning. If a charity chooses to be involved in these activities, this has to be exclusively in furtherance of its charitable purposes and objectives.

'War on Terror' terrorist finance and abuse of charities

With regards to the pertinent observations in the previous presentations, it is true statements made by some key senior politicians and others have sometimes

overstated the scale and nature of the threat to the voluntary sector, both on an international level as well as in the UK. However, it is undeniable that all sectors of the economy are at risk and that includes the voluntary sector. Our message is that we need to be realistic about the scale of the threat, but we also have to be vigilant; the threat exists, it is ongoing and very serious.

Our assessment as a regulator is that terrorist abuse is actually very rare in charities. There have only been a very few cases where there are proven links or support of terrorist activities. While it is rare, it is completely unacceptable and therefore the Commission's approach is that if anything comes to our attention we will give it the highest priority. Our role is to raise awareness of the threat and to support charities in protecting themselves from harm and abuse. It is also about raising understanding of the nature of the charities sector in other parts of government, how it operates and what safeguards are already in place. This has involved linking with other regulators, government agencies, law enforcement and intelligence services.

Counter-terrorism legislation in the UK

Counter-terrorism legislation in the UK is not isolated; it is aligned with and part of a wider set of legislation. It relates to the United Nations Terrorism Measures Orders and various EU regulations. If entities fall foul of the UN and EU legislations, this automatically applies in the UK. However, the lack of a shared international definition of terrorism limits what can be aspired to at an international level. This makes it difficult for charities to understand what is or is not possible; what the implications might be for them and how they should deal with them. Again the role of the Commission is to address these issues very much in dialogue with the voluntary sector and invest the resources needed to achieve this. Our outreach work suggests that the level of awareness in the

sector is very low, especially in the regions and amongst small and medium-sized organisations. There is a real need for the Commission to make clear the expectation that charities are not used to commit criminal offences under international or UK terrorism legislation. We need to point out the dangers of inadvertently breaking the law, particularly to charities working overseas that run the risk of not complying with local legislation.

Charities and terrorism: Commission investigations

There are very few ongoing investigations. The key purpose of these investigations is to establish the facts underlying concerns and to critically assess the risk to the charity. Our aim is to protect the charity and allow legitimate charitable activity to continue, within the law – not close it down. As highlighted in the first presentation of the seminar our approach in the UK is very different to the one in the States.

The Commission tries its best to use its power in a sophisticated and layered way to target the source of harm and abuse.

Through the progress of a case, different actions are taken according to the evidence and the issues that arise. At times the Commission has used 'soft' regulatory responses to prevent problems rather than opening a major statutory inquiry. For example, a particular charity saw its bank accounts and assets frozen because of its connections to convicted terrorists. However, it was very clear to us that it was inadvertence and ignorance of the law in this specific case. A lot of work was done with the charity trustees to help them understand and address the problems. The results of any inquiry are published for public accountability reasons, but also because there is a lot of learning in these inquiries on wider issues

that have relevance for the broader sector. The Commission will be using these reports to develop guidance.

■ Conclusion: next steps

The Financial Action Task Force has been the main driver in the UK for the government review of the vulnerability of the voluntary sector to abuse. The Commission has engaged with it solidly and produced its own counter-terrorism strategy after a full public consultation. We very much welcomed the dialogue with NCVO, Bond and other organisations in the sector and have worked very closely with them at all the stages when developing our strategy and continue to do so. We are currently working on a toolkit, in partnership with the sector, to assist charities in undertaking risk assessment and minimise the risk of terrorist abuse.



Open discussion

JH Jude Howell

AH Alex Hall

JL Jeremy Lind

DW David Walker

Key points from the open discussion

- The Financial Action Task Force has impacted negatively on the activities of civil society across the globe.
- When multiple partnerships operating in transnational spaces, are engaged in border technologies, it becomes increasingly difficult to have transparency and to know where to seek redress.
- Privacy and data protection are always playing catch-up with what is possible technically and commercially.
- The evidence in the public domain about the efficiency or the usefulness of data-mining techniques has been notably absent.

Comment: *The impact of the Financial Action Task Force on the activities of civil society has been very negative across the globe. If an organisation is listed as a high risk organisation on the Office of Foreign Assets Control (OFAC) list it is effectively dead in the water, it cannot operate because no financial institution will want any dealing with it. The OFAC list has 325,000 names so the possibility of similarity of names is very high. When money is being transferred, it can be held up, for instance, by American Express (which acts as a clearing bank around the world) and investigated. The organisation is charged €500 even if it is cleared. The implications can be very serious; money can be held up for months and this can lead to help not reaching the communities that urgently require assistance. In some areas of the world such as Gaza and the West Bank there are risks of terrorism, but civil society organisations have a duty to be present and to actively help families and children living in those areas.*

Comment: *It is important to bear in mind that some civil society organisations can have homophobic, Islamophobic or racist tendencies. There are many tensions within civil society that need to be proactively addressed because they can create serious divisions. As a non-Muslim organisation, we are making active efforts to engage with Muslim organisations and with Muslim communities, but what we have found is*

that if you are not a Muslim there is sometimes amongst young Muslims a "what do you know?" attitude towards us. It is understandable, but it does make some of our work more difficult.

Comment: *The focus on human rights and civil liberties is diversionary. It says nothing about the root causes of terrorism and how they are going to be tackled.*

JH Your points about diversity are very apt. Since the late 1990s and after the Cold War, the widespread image of civil society as a benign and harmonious sphere means that civil society as a site of diversity, power relations and conflict has been overlooked. Your comment on engaging with Muslim communities reminded me of the early days of the women's movement when it was difficult to have a dialogue because people would say, "what do you know? you're a man".

DW I am well aware and agree with the seriousness of issues around banking. The actions by the US and their designation have a significant influence, particularly on banks. Banks operating in the US become potentially vulnerable to prosecution. Banking is a huge concern for the Charity Commission. We are raising it with government, particularly with the Treasury

which is leading on this issue, and we are also involved in cross-government discussions.

In relation to the difficulties particularly in the West Bank and Gaza, in our inquiry report on Interpal we recognised the humanitarian imperative for charities delivering emergency assistance. We have clearly a very different view to the Israelis and indeed to other governments.

AH In your example about American Express, we can see very clearly some of the effects of risk-profiling on people trying to move or transfer money across borders. When multiple partnerships between public and private authorities in transnational spaces are engaged in capturing data and applying risk profiles, it becomes increasingly difficult to have transparency. When our privacy, civil liberties and data protection laws are encoded nationally, it is extremely difficult to know where to go to seek redress. It is entirely unclear now in these public-private partnerships where commercial data protection laws have purchase and which law enforcement agencies are involved. Things are increasingly opaque and difficult for those who find themselves targeted.

Comment: *A few years ago I had to go to a policy meeting in a bank in Central London. When I got to the building, I was told I had to have my irises scanned otherwise I could not attend my meeting. Because the bank had its headquarters in America, I had to wait for clearance to come back from America. I was surprised that the bank was allowed to do this.*

AH I am working on another related project at Durham University called Data Wars, which is examining private-public partnerships in new spheres of governance, like the one that you describe. We are looking at the prominence of Passenger Name Records (PNR) for security practice. Currently, if you fly into the US or even over US air space, the data that you give when you book your flight ticket is retained in US databases for quite a long time and is used for purposes that are

Open discussion

not entirely clear. There have been a range of interventions by the American Civil Liberties Union (ACLU) about the use of this data and how it is retained. We are increasingly required to give up data about ourselves, as your example shows so well. Privacy and data protection are always playing catch-up with what is possible technically and commercially. Those who are trying to regulate in this field are finding it difficult to keep a handle on the changes that are taking place.

Question: *The information on designated terrorist organisations or individuals changes constantly. How do charities keep informed?*

DW The UK has a consolidated list on the Treasury's website. It is a combination of organisations proscribed by the United Kingdom government and entities or individuals designated under UN regulations or European Union regulations. For the US, it is more difficult but the OFAC list can be accessed. One of the things the Charity Commission might do if it is considered helpful, is to provide alerts when there are new designations. Producing guidance is an iterative process; we will not get it right immediately but it will develop over time.

Comment: *What we have been talking about this afternoon could be regarded as the 'War on Terror's' collateral damage. But I think we should all be grateful that as a result several hundred terrorist attacks have been stopped. It is difficult to counter terrorism and we should give the security forces the credit for having at least attempted to do so. It is a blunt instrument though.*

Comment: *There is currently much discussion about what causes extremism to turn violent. You do not necessarily have to think about the root causes of terrorism, unless you are assuming there is a rational basis for terrorism.*

Comment: *Government has established a preventing violent extremism policy without really providing an evidence base. It has not been proven that the actions they propose will tackle the issues. When money is made available at a community level it comes down to local politics and local*

community relations. Some local community groups will not want to work with government, but others will take advantage of the fact that there is funding because they are under-resourced, even though many of them might feel incredibly uncomfortable with the strategy and what is being asked of them.

AH Regarding the idea of collateral damage, the evidence in the public domain about the efficiency or the usefulness of data-mining techniques has been notably absent. It is precisely the idea of the everyday kind of collateral damage and violence that I think should be highlighted alongside the more spectacular symbols of the 'War on Terror' like Guantanamo Bay. Increasingly we are getting used to the notion that these practices have been proven to work, that they are 'successful'. However the evidence base is not emerging. It is important that civil society pushes for that evidence.

JL Governments have consistently failed to substantiate claims that charities are misused by terrorist networks. Under the Bush administration, Dick Cheney said: "if there is a 1% chance that Pakistani scientists are helping Al-Qaeda build or develop a nuclear weapon, we have to treat it as a certainty in terms of our response, it is not about our analysis, it is about our response".



Biographies

Jude Howell

Centre for Civil Society, LSE

Jude Howell is Professor and Director of the Centre for Civil Society at the London School of Economics and Political Science. Her recent books include *Gender and Civil Society* (co-edited with Diane Mulligan) 2005; *Civil Society and Development* (co-authored with Jenny Pearce) 2002; and *Governance in China*, 2004. She has written extensively on issues relating to civil society, governance, development policy and gender and much of her empirical work focuses on China. She has also worked and carried out research in India, Mozambique, Kenya, Jordan, Afghanistan and Malawi. She is currently directing the Economic Social Research Council research programme on Non-governmental Public Action. She has two publications due in 2009: A co-authored book on the *War on Terror, civil society and aid*; and an edited collection on *Civil Society Under Strain*.

Jeremy Lind

University of Sussex

Dr Jeremy Lind is a Lecturer in Human Geography at the University of Sussex. Previously, he was a Research Officer at the Centre for Civil Society, where he worked with Jude Howell on the project *The Global War on Terror, Non-Governmental Public Action and Aid*. His interests include development and security; NGOs and peace-building; and livelihoods programming in situations of armed conflict. Geographically, his interests are in east and the Horn of Africa as well as Afghanistan. In addition to the work he is currently completing into the impacts and implications of the 'War on Terror' for civil society, he is also developing work on the linkages between civil society and violence, taking Kenya as an example to highlight certain problematic assumptions in aid that civil society is a harmonious, peaceful realm that is suited to peace-building.

Alexandra Hall

Durham University

Dr Alexandra Hall is a Research Associate at the Department of Geography, Durham University. She is currently working on the ESRC-funded *Contested Borders* and *Data Wars* projects (with Dr Louise Amoore). *Contested Borders* is investigating the ways in which technologies of data-led border security in the 'War on Terror' are shaping the agenda and scope of non-governmental political action, and how this political action is framing and contesting new border security measures in turn. *Data Wars* is focused on the use of particular forms of passenger and financial data in security practice. Her research interests encompass immigration and asylum, borders, and the management of mobility; her PhD fieldwork focused on the use of detention in immigration regimes. This work is being developed into a book for forthcoming publication in 2010.

David Walker

Charity Commission

David Walker has spent two years as Head of Compliance Outreach and Development in the Compliance Division of the Charity Commission, following a year spent on the Commission's Charity Engagement programme. Prior to joining the charity regulator, David spent over 19 years working in international humanitarian relief and development in Africa and Asia with Save the Children, latterly as their Regional Director for South and Central Asia.

Karl Wilding

NCVO

Dr Karl Wilding is NCVO's Head of Research. His research interests include mapping the changing third sector economy and the relationship between new technologies and philanthropy. He is a trustee of the Association for Research in the Voluntary and Community Sector (ARVAC), a trustee of St Albans CVS, and an Honorary Senior Visiting Fellow at the Centre for Charity Effectiveness, Cass Business School in London. He is also a co-investigator for the ESRC/OTS Giving and Philanthropy Research Centre.



NCVO has over 7,000 members. With over 280,000 individuals and over 13 million volunteers working for our members, we represent and support almost half the voluntary sector workforce. Our goal is to support members by creating an environment in which voluntary organisations can flourish and develop. Join online at www.ncvo-vol.org.uk/membership

NCVO's research aims to support the development of effective policy and practice in the voluntary and community sector by building a relevant and robust evidence base. For more information go to www.ncvo-vol.org.uk/research

The **Non-Governmental Public Action Research Programme** is an Economic and Social Research Council (ESRC) initiative directed from the London School of Economics and Political Science which aims to better understand the impact of public action by non-governmental actors.

We fund a wide range of researchers working in the UK and internationally. The researchers are based in universities, think-tanks, civil society organisations, projects and networks around the world. The NGPA programme helps researchers gather data and build theories of social change using a range of approaches including ethnography, international comparative analysis of political and economic data and organisational sociology. It also supports them to present their ideas and information to a range of audiences.

We are actively building links and sharing learning between researchers, policy makers and practitioners in the field of non-governmental public action. We do this using a variety of methods, including organising workshops, publishing papers and presenting findings at conferences and meetings.

The director of the NGPA programme, Professor Jude Howell, is based at the Centre for Civil Society, in the department of Social Policy at the London School of Economics. For more information about the Centre, go to www.lse.ac.uk/ccs

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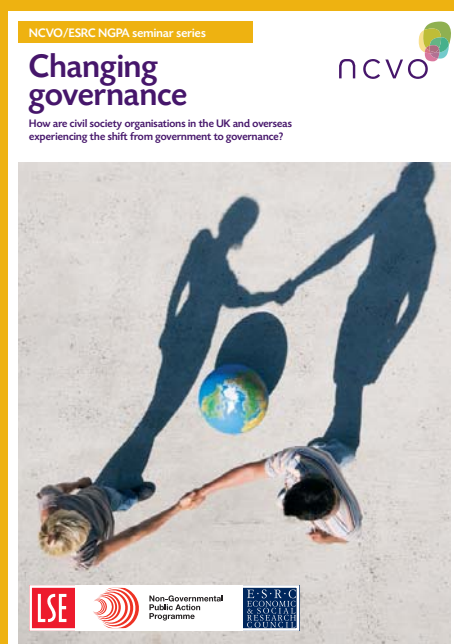
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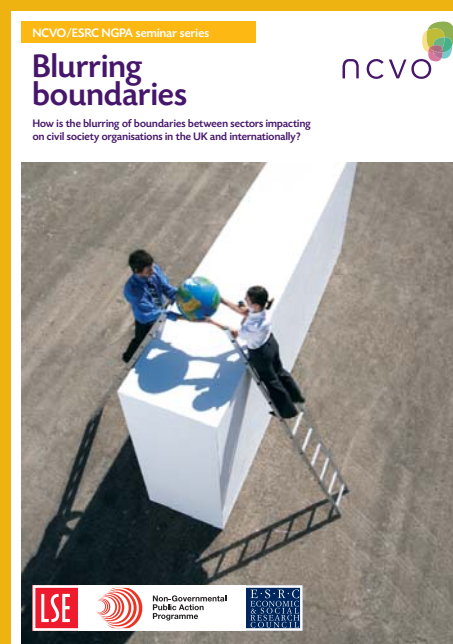
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