

Racial Profiling as a counter- terrorism tool: To what extent has racial profiling contributed to the security of the United Kingdom since the London bombing of 7 June 2005?

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Abstract

The important fight against racial bias and discrimination in the United Kingdom is on the increase, with data showing that since the July 2005 train bombings, the police forces all over Britain have drastically increased the rates of racist assaults. Though there are currently rarer de jure practices of bias, de facto racial bias consistently plague the United Kingdom, restraining the pleasure of basic human rights among millions of people of ethnic and racial minorities. Practices and policies that seem race-neutral yet unfairly restrict the freedoms and rights of people of different racial backgrounds are hard to challenge, and inaugurating their discriminatory nature within the conscious of the public and among policymakers is a battle that is too difficult to fight. The law enforcements' racial profiling and the related criminalization of people based on their race is a perfect example of the difficulty (Hudson, 2011). Despite the irresistible evidence about the existence of profiling, often confirmed by official data, there is still egregious and prevalent discrimination in a number of western nations.

The issue of differences in treatment of people of different ethnic background has brought a significant debate among observers and scholars, though there is no conclusion that is being adopted by the United Kingdom. This paper evaluates the application of racial profiling as a tool to counter terrorism, and the extent to which it has contributed to UK's security since the 7 July 2005 train bombings in London. The paper defines profiling, the perspective of legality and human rights, effectiveness, and limitations.

1. Understanding profiling

Profiling has been criticized in a number of western nations for a number of decades, for instance in the United States, the pressure against the practice has been experienced since 1970s when a number of policies were created with reliance on the belief that given types of crimes are solely committed by persons from specific ethnic groups (Hudson, 2011). In the country, the initial groups that were targeted with the aim of fighting organized crimes as well as drug trafficking were both Hispanic and native blacks.

Profiling refers to the act of targeting precise individuals by the authorities that enforce the law. The authorities do this using general personal characteristics rather than the actual behavior of the people. Thus, as explained by Scherer, et al (2012) profiling is the use of race, national origin, ethnicity, and religion to target given people, and treat them differently during investigations or other related law enforcement issues. It is the impermissible application of people's race, national origin ethnicity, and religion by authorities who enforce the law in the determination of the individuals to stop, question, detain or refer to other procedures of investigations.

To illustrate how the definition is practically applicable, the given hypothetical examples can be used in demonstrating actions that would and those that would not constitute profiling. In the first example, a police officer parking on the side of a highway realizes that nearly all the vehicles using the highway exceed the required speed limit. Because the all the drivers in the highway are violating the rule and worth being legally stopped, it would be hard for the officer to use the drivers' race in making the decision on who to pull over and who not to stop. In case, however, the driver receives a notification regarding a lock-out for a robbery suspect who is fleeing, with descriptions of age group, ethnicity, race, and descriptions about the automobile, the officer may apply the description, race inclusive, in making the decision regarding the person to stop and the person to let pass. This is not considered as profiling because the officer applies specific descriptions to ensure the fleeing robber is captured.

In the second example, in the case of suspicion of transporting bombs to be used in a terrorist activity, officers receive information that the shipments of the bombs will be picked up at a given railway station and elderly couples will be used in transporting them to their destinations. There are no specific descriptions of the traits of the couples who will be used in the transportation and the officers are obliged to use their wits in inspections to ensure the bombs do not reach their destinations. As such, the officers use general assumption that the members of a given race or religion are to be associated with terrorism, and engage their search intensively of elderly couples of that race. The act is described as racial profiling, as people of different races are not equally treated in

the attempt to stop the terrorist activity. The investigations involve harassment of people of given race or religion while others are treated normally.

2.1 Issues in racial profiling

Marichu (2011) has explained that profiling is the impermissible application of people's race, national origin ethnicity, and religion by authorities who enforce the law in the determination of the individuals to stop, question, detain or refer to other procedures of investigations. Issues that emerge from this practice include the concern regarding the violation of human rights, upholding security and safety, and breaching morality principles. The protection of human rights is a topic that has been heavily discussed in a number of subjects all over the world. Human rights refer to the basic freedoms and rights that all humans should be entitled to: the right to liberty, expression, life, and equal treatment using the law among many others. Every nation often has a set of the fundamental human rights of its citizens, though there are a group of rights that cannot be violated by any countries because they are created and protected by documents for international human rights. Protection of human rights is ensuring that people are given a certain degree of humane and decent treatment. Since political systems that are involved in the protection of human rights are striving to ensure that any forms of conflicts are reduced within the international community, it is arguable that they work uniformly to ensure the human rights are protected all over the world. A number of international laws, including the humanitarian intervention law, international human rights law and the refuge law play an important role in the protection of the physical integrity and right to life, and make attempts of limiting a state's unstrained power. The aim of the laws is the preservation of humanity and the protection against things that would challenge the economic well-being, health, political peace and social stability of people. In the application of such laws in the nondiscrimination principle, the perception about rights is applied universally.

The responsibility of protecting human rights is basically held by the states within which the individuals reside (Rebekah. 2015). However, in several situations, government officials as well as public authorities have implemented policies that lead to violation of these fundamental human rights, racial profiling being a perfect example. The fact that racial profiling is a violation of rights like the rights of equality, movement, and even expression has resulted to massive debate regarding its legality, and the need to eradicate it. With the contradicting arguments regarding its significance, and the variations in the levels through which it is used, racial profiling has remained consistent despite campaigns by several human right activists against it use.

Security and safety is another significant issue that emerges in the topic of racial profiling. Security, safety and justice are significant priorities for everyone, and are related to the development outcomes, the violence conflict prevention, effective and accountable states, service delivery and economic growth. The aims of justice and security programming are the provision of support towards development, stability, peace, and democratic governance. These are perceived to benefit both security and economic interests of natives, foreigners and the immigrants.

Literature highlights that programming of security should be centered on people, depending on the experiences that the citizens receive on injustice as well as insecurity. This is related to the fact that in conflict affected and fragile contexts, the provision of justice, security, and safety involve a wide range of providers who act in different levels. These include the local networks and providers, state actors, and non-state actors. There is no clear line between these actors, as they are related to one another in a number of ways and have a wide degree of independence from the state. While a number of analysts have shown their recognition for the use of a multi-layered approach to justice and security, a number of programs have consistently emphasized on idealized technical approaches that are based on the capacity of a state's institutional building. It is believed that such programs have limited results in the improvement of the justice, security, and safety of occupants of a nation, and rarely contribute to the development of the nation.

According to Glover (2009), in the application of the programs that rely on idealized technical approaches that are based in the capacity of state's institutional building, racial profiling has often been applied in attempts to raise the level security and safety. People of given races have been consistently associated with given crimes and terrorist activities. Therefore, in attempts to reduce terrorism and criminal activities, people of these races are subjected to unequal treatment by law enforcement agencies. Glover (2009) holds that debate have consistently indicated that racial profiling have proved a little beneficial in the reduction of the criminal acts and terrorist attempts in several countries, though it is also clear that it is a major violation to fundamental human rights. The diversity in the use of racial profiling among individual agencies makes it challenging to curb the issue, and the belief that members of given racial groups are more prone to criminal and terrorist activities has also contributed

the difficulty in eliminating the issue. A number of people have actually agreed that racial profiling is important in reducing terrorism in the United Kingdom.

Morality is another issue that is highly discussed in racial profiling. It has been reported severally that some people get searched inappropriately by police officers as a result of racial profiling. These even include touching their genitals as well as other private parts to ensure no drugs are carried. The reasons why racial profiling has been termed immoral include: putting innocents under scrutiny, creating exclusion and alienation, diminishing trust in law, feeding major suspicion regarding minority communities, and causing massive trauma as well as humiliation (Birzer, 2013).

Innocent people from a number of the minority races that are subjected to racial profiling suffer humiliation from the authorities despite their innocence. For instance, belief that people of a given race who dress in a similar manner, have given body sizes, or talk in given ways are likely to be associated with criminal activities make the law enforcing officers search them more intensively, and in different ways (Muffler, 2006). This is done even to those who are totally innocent, a factor that is contradictory to moral principles. The creation of exclusion and alienation is equally a major moral issue of racial profiling, as given minority races are perceived differently from others. It makes a number of citizens who are profiled lose their trust in the law and refrain from contacting the authorities in case of pressing matters. Other races that are not profiled become suspicious of those who are profiled, making it a challenge for them to interact in mutually beneficial ways. Moreover, the way the races that are profiled are handled by officers might turn out to be humiliating and result in trauma.

2.2 Legality and Human Rights Perspective

The agencies that enforce the law practice racial profiling with the aim of achieving two main goals: stopping terrorists and preventing illegal drug activity. In a debate regarding the level of appropriateness of profiling, people tend to support the act in some instances and disapprove it in others. In the United States for instance, majority of the citizens are against racial profiling that is used in attempts to eliminate drug trafficking, especially racial profiling at traffic stops (De Schutter, and Ringelheim, 2008). Though some authors have concluded that the advantages of racial profiling outweigh its disadvantages when undertaken respectfully and politely, as it can prevent several mass murders and related illegal activities, the determination of its legality and the perspective of human rights remains a significant strategy of concluding the debate.

There is a major complexity in racial profiling due to the fact that it has the ability of manifesting in several strengths and shapes. It is not an affair that simply involves doing or not doing by the officers of the law enforcement, and neither can it be pinned basically to the behavior of a single officer. Researchers have elaborated that a number of profiling practices are rarely explicit, as they might or might not result from intentions of making judgments based on racial differences by officers who enforce law. In fact, it is arguable that a number of officers are not aware of the level in which the ethnic stereotypes influence their subjective decision making. Generally, the complexity results from the fact that the extent to which the agencies that enforce law undertake racial profiling, the impact of the techniques they use, and the measures they have implemented in the prevention of profiling highly vary between them and policy areas. For instance, there has been a thorough scrutiny of disproportionality in police search tactics and stops since the Race Relations Act 2000 was introduced in the United Kingdom (De Schutter and Ringelheim, 2008).

Consequently, a number of measures have been implemented to reduce and gauge the use of racial differences in undertaking the duties of criminal justice system. Though the Police and Criminal Evidence (PACE) Act's Code A illustrates that it is highly illegal for any police officers to use ethnicity or race in discriminating people, it is stated in paragraph 2.25 that officers have the ability of taking account of a person's ethnicity when screening people for search under section 44 (De Schutter and Ringelheim, 2008).

Goodey (2006) explains that unlike the stop and search practices of the police, the UK Border Agency (UKBA) is legally allowed not to adhere to the Race Relations Act 2000 whenever there is any need. The immigration service of the region is thus given the legal mandate of discriminating on the grounds of ethnicity and nationality in given circumstances. In UK, there are thus no measures that have been implemented to reduce or gauge the influence of profiling within the borders. This has the ability of resulting into excess stereotyping among officers handling immigration issues, and massive violations of human rights at UKBA.

Though there are many responses and practices through a number of law enforcement agencies in Britain, there are given similar threads. It emerges clearly that blacks and Arabs face harsh policing tactics, and indication that they are more targeted by the authorities than the others due to their race or ethnicity (Goodey, 2006). Another

common issue is that the stop and search practices by the authorities is perceived to be a significant way of reducing criminal acts, despite the fact that the treatment received by different people in such instances might differ. Finally, the issue regarding accountability is equally paramount among all the authorities in the United Kingdom.

Even if the agencies that enforce the law insist that the strategy of stop and search is important in detecting and preventing crime, the question regarding disproportionality is still a major concern. Disproportionality has emerged as a common and sensitive tactic that is being applied by the agencies that enforce the law. It is actually the sole reason why a number of critics call for the end of the use of stop and search tactics by the agencies as a strategy for the elimination of crime. Arguments have been held by the critics that the costs of the disproportionality are higher than its benefits, and thus accountability should be ensured with the aim of perfectly eliminating the practice.

A number of human rights organizations have equally condemned the use of racial profiling with the intention of reducing crime and terrorism. Liberty for instance has indicated that the use of racial profiling is actually an ineffective method of reducing crime and terrorism. During January 2010, a ruling by the Court of Human Rights stated that the Terrorism Act 2000's section 44 is actually a violation of the right to the respect for a private life (De Schutter, , and J Ringelheim. 2008). As elaborated by Liberty, the profiling of any suspects should actually be based on real intelligence and suspicion rather than ethnicity and race. Stopping and searching people with the use of their skin color, dress code, or name should never be perceived as a valid reason. In the current post slavery world, racial discrimination is an act that is highly condemned all over the world. The use of racial profiling with the attempts of reducing crime and terrorism has highly been condemned due to the belief that it promotes racial discrimination. It is a major violation of the rights to equality, a fundamental human right that should be enjoyed by everyone throughout the world.

Treating people unequally by the police indicates that the right to equality of others is violated, and a number of human rights organizations highly condemn the practice. Other rights that are violated by the practice include the right to the pursuit of happiness, freedom from discrimination, freedom of expression, and at times freedom of movement. Racial profiling is consistently being discussed by a number of human rights organizations as an ineffective method applied in the prediction of crime. The organizations are concerned by the fact that it is consistently being applied and misused by authorities, most commonly the police. The organizations are concerned by the fact that an increase in the abuse through the use of racial profiling would cause an increasing mistrust in the government officials as well as the police.

3. Effectiveness of Profiling

According to Githens-Mazer and Lambert (2010) law enforcement agencies usually assert that profiling through broad racial or ethnic groups is normally a “good policing”, implying that it is effective policing. Indeed, social, economic and demographic attributes like race and ethnicity are many times used in policing as pointers of offending patterns, with some forms of offences viewed as more common within members of certain minorities. Based on this, it is suggested that law enforcement measures ought to be focused on particular communities or groups in regard to certain offences.

Abbas (2011) has underlined that it is possible that in certain societies or ethnic groups, there are distinctive offending profiles that are influenced by various factors like social and economic standings. Nonetheless, there is evidence to show that the rates at which persons are stopped and searched fail to correspond to the offending rates of different racial groups (Delsol and Shiner, 2006). Accordingly International Helsinki Federation, (2004) suggest that to investigate the “effectiveness” of racial profiling, data is needed in two areas.

The first area should be “population disproportionality”, which can be gathered to establish the way exiting racial profiling (inform of stopping and searching) targeted ethnic groups have impacted these groups, in relation to the population that is stopped and searched in certain places at particular times. The second data required regards the effective “hit rate” that results from police stop and search. This implies that police officers that carried out the stop and search found some of evidence of law contravention. As explained by UK Ministry of Justice (2006) “hit rate” refers to the rate of stops and search that give evidence of law contravention and that can be used to take an action on the basis of criminal law, for example arresting the offender. However, as mentioned by Goldston (2006) criminal justice data in many countries do not give a general idea of individual cases using the criminal justice system.

In the European Union ,the UK has given the richest official information on police stops as well as “hit rates”. For instance, from April 2007 to March 2008, based on section 44(1) of the Terrorism Act, the UK made 65,217

stops resulting in 699 stops (UK Ministry Of Justice, 2006). This number translates to a hit rate of 1%. Under section 44(2) of Terrorism Act, 52,061 stops were carried out resulting in 533 arrests; again this is a 1% hit rate (UK Ministry of Justice, 2009). These “hit rates” seem considerably low. On the contrary, the negative impacts that these stops and searches have on certain communities such as the Arab communities or the Black communities in relation to racial profiling since 7/7 are high bearing in mind that majority of the individuals in these communities are not involved in terrorism activities.

There is evidence to show that removing race from generalized criminal profile instead of specific suspect profile as well as demanding that officers look at particular non-racial characteristics could assist in improving the effectiveness of “hit rate” and at the same time prevent the discriminatory treatment brought by racial profiling. Delsol and Shiner (2006) notes that in rare cases where racial profiling was stopped and a clear non-racial profiling established and its effectiveness measured, the outcome indicated that behavioural profiling instead of using determined face factors, could certainly enhance the effectiveness of profiling.

In regard to limiting and countering terrorist activities, the effectiveness of racial profiling in the case of UK security very much depends on the agencies implementing the policy, the type of policies and the response from communities involved. For example, Abbas and Awan (2015) mentions racial profiling in UK can only be successful in a case where young Muslims are responsive of police profiling since it is the most targeted.

A study carried out on effectiveness of racial profiling in the UK following the London bombing underlines that global terrorism is not new and is bound to continue (see, Hickman et al, 2011). More so, there is little research on efficiency of profiling in UK (after the London bombing). In view of this, it is difficult to establish the effectiveness of racial profiling and the defensive mechanism that are adopted may fail to achieve their desired outcome bearing in mind that there is not enough studies to support the effectiveness of racial profiling.

It is therefore certain that racial profiling brings considerable costs, not just on the members of the affected minority groups (in this case Muslims young people from the Middle East, but as well on the general societies. Accordingly, it has to be demonstrated that racial profiling is effective to be undertaken. Owing to the costs and the burdensome to the targeted minority communities, and owing to the fact that the European case-law distains discrimination on the basis of race, religion or ethnicity, racial profiling has to be established as effective to be used.

According to James Goldston (2006), there are four elements of effectiveness that has to be put into consideration to comply with stringent test of racial profiling.

Promoting alienation, compromising trust

Goldston (2006) explains that the first question that needs to be asked is whether racial profiling impacts the cooperation between the police and the community. By branding an entire community as suspects, racial profiling may result in institutionalization of prejudice within the general public. More so, it could result in the targeted members feeling alienated, and the level of alienation will differ based on the action taken by the security agencies. Indeed, several studies after the London bombing have documented an increasing perception among the Muslim communities across the UK, that the police stop and search them more than other communities based on the race. This will self defeat the very purpose of racial profiling when the community whose cooperation is required in fighting terrorism, feels alienated (Goldston, 2006).

Over-under inclusion

A second aspect on effectiveness is the dual challenge brought by over and under-inclusion. For racial profiling to act as an important sieve for law enforcement, the profile has to be wide enough to include all persons that represent terrorist threat and at the same time narrow down enough to leave out those who do not belong to terrorist. However, in many cases the racial profiling as taken in the UK does not accomplish these two functions. Goldston (2006) explains that a general profile that entails more likely threats is usually of less importance as a sieve, specifically since it as well includes many individuals who are not of legal interest. This implies that profiling may likely leave out the individuals who may genuinely be of concern to the security agencies.

Indeed, the different identities of terrorist perpetrators of latest bombing indicate the difficulties of racial profiling. Some of the perpetrators were born Muslims, other new converts, some lived in poor neighborhoods, while other lived in good middle class communities, some had previous criminal records, while other it was their first time. All these aspects underline the difficulty of racial profiling.

Escaping a targeted profile

The third issue regards the response of terrorist organization in relation to racial profiling. When the UK targets young Muslims from the Middle East, it becomes predictable for the terrorist organizations and they can easily circumvent the targeted groups. In this view, Goldston (2006) asserts that terrorist is always ware of the characterization by race or ethnicity.

Distortion of race and ethnicity power

Lastly, racial profiling leads to distortion of race and ethnicity power in the group that is being profiled. Goldston (2006) has underlined that though race and ethnicity are important attributes; their application in profiling is questionable. This is because they are not applied in an accurate way. The inaccurate application limits the effectiveness of racial profiling. The above section has briefly examined the effectiveness of racial profiling in the UK and noted that its effectiveness is not guaranteed. This is because of its impact both to the targeted community and the general communities. It has been noted that security agencies should focus on behavioural profiling rather than racial profiling, which seems to be more effective.

4. Limitations of Profiling

The application of racial profiling in the UK as counter-terrorism strategy underpins a several limitations that limit its effectiveness. As mentioned by Abbas (2011) these limitations comes from a number of possible balancing acts that can be grouped into three main groups, particularly due to the fact that racial and ethnic characteristics tend to the main attributes of profiling. The underlying balancing acts create several challenges to the law enforcement agencies. For example, the first group concerns human rights. Here, the challenge is to balance the use of race, ethnicity and religion in profiling in regard to upholding the human rights of each person that abhor discrimination based on attribute. The challenge arises from using group attributes for example groping people as Muslims in fighting terrorism.

It has also been argued that racial profiling result in stereotyping and discrimination, which undermines and limits how effective it can be used. Abbas (2011) asserts that race cannot be assumed to be the sole factor or consideration in decision making of a person. Accordingly, when security agencies only base on race and ethnicity in as the lens to look for terrorist, it becomes hard to get effectively fight terrorism. More, basing on race to make a decision of whether one is a terrorist or not implies that the security agencies will be biased in their decision making.

Another limitation that arises from racial profiling is the labelling of a entire community, and targeting that community. This means that the innocent persons in this community have to bear the burden of being treated as suspects. The fact that those targeted feel humiliated and their rights abused, they can decide not to cooperate with the authorities even in cases where they can assist in arresting the real culprits. Indeed, the Muslim Council of Britain (2010) established that the measures taken by the UK government after July, 7 London bombing let many Muslim communities felling that they are targeted by law enforces and thereby were not comfortable with the counter-terrorism measures that were undertaken. Additionally, a study by Hickman et al (2011) found that Muslim communities feared counter-terrorism measures and law enforcement agencies resulting in these communities feeling that they are stigmatized. Similarly, Choudhury and Fenwick (2011) found that Muslim communities in the UK felt stigmatized from the anti-terror laws and policies that have been undertaken.

Conclusion

This paper has examined the issue of racial profiling following the 7/7 London bombing. The paper has underlined that racial profiling is a critical strategy in the counter- terrorism measure, that its effectiveness and application is still debatable. This is because of underlying issues such as human rights, discrimination and stereotyping. Indeed, it has been pointed out by a number studies that racial profiling promotes stereotyping of Muslims minorities in UK. More so, it is against human rights principles to profile people based on their race, ethnicity, religion or any other factor. In order to examine the effectiveness of racial profiling the paper has noted that its effectiveness is limited by the fact that racial profiling generalizes the entire community, leaving such a community to feel alienated and thereby the community may be unwilling to fully cooperate with law enforcement agencies. More so, those communities that are targeted fell stigmatised. Owing to controversies, limitation and other issues that surround racial profiling, it is important for the UK authorities to rethink their counter-terrorism measures. One of the suggested approach is behavioural profiling that tends to be more accurate and thereby more effective. More so, it does not target a particular community, rather people of certain traits and behaviours. Certainly, any counter-terror measure that is viewed as disproportionate is a big risk that may be used as those who view Muslim community in the UK as legitimate targets, and this could result in increase of Islam-phobia and racism which is a dangerous trend.

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