

# Prosecuting Extremists in the UK:

## An Exploration of Charging, Prosecution, and Sentencing Outcomes

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### OVERVIEW

There is a lack of data regarding prosecution and sentencing for terrorism and terrorism-related offences across the three legal jurisdictions of the UK (England and Wales, Scotland, and Northern Ireland).<sup>1</sup> The current study sought to provide a better understanding of the prosecution landscape for extremist actors in the UK by describing, analysing, and comparing the sentencing outcomes of individuals convicted of terrorism, terrorism-related and violent extremism offences in each of the three legal jurisdictions of the UK since the beginning of April 2001 through to the end of March 2022. This project employed a review of relevant literature, interviews with stakeholders, analysis of judges' sentencing remarks, and creation and analysis of a sentencing database to answer the following key research questions about the prosecution landscape:

1. What criminal offences (terrorism offences, terrorism-related, and violent extremism<sup>2</sup>) are extremist actors being convicted of? Does type of offence differ based on extraneous factors such as ideological motivation and gender?
2. What sentences are being imposed, and do sentences differ based on extraneous factors such as ideological motivation and gender?



3. Is there any evidence of changes in sentencing over time that align with the introduction of sentencing guidelines in England & Wales, or major terrorism events?

Related to RQ1, in the statistical model predicting offence type from potential predictors (motivation, age, gender, ethnicity, and co-accused), age and motivation group were shown to predict offence type. NI-related extremist actors are far more likely to be convicted of terrorism-related offences than terrorism or violent extremism offences. This is one of the clearest differences evident from the data. Despite being convicted of terrorism and violent extremism in approximately equal proportions, right-wing offenders are the most likely of all groups to be convicted of violent extremism offences, and Islamist offenders are more likely to be convicted of terrorism

<sup>1</sup> Although the Home Office does release regular statistics on the number of arrests for terrorist-related activity and outcomes (such as charges and convictions) broken down by legislation this is only for Great Britain. Moreover, the data is not sufficient in detail for the Research Questions that we are addressing.

<sup>2</sup> Terrorism offences are those offences under terrorism legislation but excluding those offences considered violent extremism. Terrorism-related offences are those offences under other legislation or the common law but which are considered terrorist-related. Violent extremism offences are those offences which "foment, justify or glorify terrorist violence in furtherance of particular beliefs; seek to provoke others to terrorist acts; foment other serious criminal activity or seek to provoke others to serious criminal acts; or foster hatred which might lead to inter-community violence in the UK" (Crown Prosecution Service, 2015).

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offences. Regarding the impact of age, as age increases, offenders are more likely to be convicted of a violent extremism offence (compared to terrorism or terrorism-related). This may reflect a bias towards convicting older people with violent extremism offences compared to other offence types, or the nature of offences committed by older individuals may be more likely to align with violent extremism rather than terrorism or terrorism-related offences.

In terms of the principal offences employed in each jurisdiction, these align with the trend noted above. In E&W, the two most frequent offences that extremist actors were convicted of were terrorism offences, specifically preparation of acts of terrorism (23%) and collecting information likely to be of useful to a person committing or preparing an act of terrorism (14%). In NI, the two most frequent offences were attempting to cause an explosion, or making or keeping explosives with intent to endanger life or property (21%), and the offences of murder, manslaughter and attempted murder (14%). In Scotland, due to a very small number of cases, five offences all had the same frequency (14%). Three of these offences constituted terrorism offences. Together, these findings highlight both the patterns and differences in the use of terrorism and non-terrorism legislation for extremist actors in the UK.

Related to RQ2, sentence length is influenced by offence type, plea, and total counts (all variables with legitimate impacts), but sentence length is also impacted by extraneous factors of gender and co-accused (i.e., whether an offender has co-defendants). Despite qualitative evidence to the contrary, ethnicity (white or non-white), age of an offender, and their ideological motivation were not shown to have an impact on sentences. According to the model, an individual most likely to receive the longest sentence would be a male with co-defendants, who does not plead guilty, is accused of multiple counts, and is charged with a terrorism-related offence. In terms of gender, we find that the sentence length for males is nearly two-thirds higher than for females, accounting for other variables. This is consistent with previous research on the US criminal justice system. Galica (2020) highlighted three primary framing narratives that might account for this

effect (the denial of autonomy, naivety, and motherhood). Media coverage of judges' sentencing remarks provide evidence in favour of these framing narratives.

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Related to RQ3, analysis of sentencing over time revealed that sentence length has remained relatively steady over the years included in the dataset (despite indications that it has increased). In terms of fluctuations due to changing contextual environments, we were interested in whether sentences increased or decreased in the aftermath of notable terrorism events such as the 7/7 bombings in 2005 and the murder of Jo Cox MP in 2016. While two peaks were identified in 2007-2008 and 2017-2018 with respect to the number of Islamist offenders being convicted there was no corresponding change in sentencing outcomes. Similarly, for right-wing offenders the number of individuals convicted peaked in 2018 but there was no corresponding change in sentencing outcomes. These results indicate that noteworthy terrorism events may impact the number of similarly motivated cases sentenced in subsequent years, but do not appear to impact sentence length. This aligns with previous research which found in the periods after the Oklahoma City bombing and 9/11 that the number of individuals indicted increased.

Analysis of all cases in E&W reveals no overall difference in sentences after implementation of the 2018 guidelines. However, analysis of three specific offences (with adequate samples sizes pre- and post-guidelines) demonstrated an impact of guidelines. These were preparation of acts of terrorism (s. 5 of the Terrorism Act 2006), collecting information likely to be of useful

to a person committing or preparing an act of terrorism (s. 58 of the Terrorism Act 2000), and dissemination of terrorist publications (s. 2 of the Terrorism Act 2006). The findings demonstrated significant increases, with sentences for s. 5 and s. 2 being ~50%-59% higher (respectively) in the post-guideline period, and s. 58 sentences 85% higher. This is in line with insights from the interviews and wider criminological literature suggesting that the introduction of sentencing guidelines may have contributed to greater sentence severity.

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Although these findings provide important insight into the prosecution landscape of extremist actors in the UK, some important limitations must be noted. In examining the prosecution landscape, we do so only by examining those extremist actors who have been convicted and sentenced, therefore, our sample is inherently characterised by a selection bias. As we have utilised publicly available information, we are aware such an approach has its own drawbacks (also noted in other research) in that the level of detail varies and at times we were reliant on media coverage to identify extremist actors. Subsequently, our dataset only includes those convicted extremist actors we could find and not all cases will have been reported in the media due to a lack of newsworthiness or reporting restrictions. Despite limitations with the use of publicly available

information and potentially missing cases, we feel these were outweighed by the benefits of now being able to share our data with other researchers.

Moreover, the findings presented in this study provide much needed information about the prosecution landscape for extremist actors in the UK by describing, analysing, and comparing the sentencing outcomes of individuals convicted of terrorism, terrorism-related, and violent extremism offences in each of the three legal jurisdictions of the UK. By creating the database, we have extended the existing data (mostly aggregate figures held within separate jurisdictions) to a database appropriate for analysis, including the principal offence and type of offence that extremist actors are convicted of UK-wide, their motivation, the principal offences of those extremist actors convicted in NI (no information previously held on individual convictions), and provided separate Scotland only data. Using the new data, we have been able to test a range of hypotheses in relation to not only motivation and sentence lengths for all extremist actors in the UK over a 21-year period, but also sentencing outcomes by type of offence, ideological motivation, gender, plea, having multiple counts, ethnicity, age, and co-defendants. We are also able to explore trends in the aftermath of the introduction of sentencing guidelines in E&W and notable terrorism events.

One potentially confounding factor throughout this report (and other available literature) is the absence of a workable severity measure. Within the extant academic literature on the sentencing of terrorists, we found no appropriate measure of severity to allow comparison both within and across different offences. This is important since the impact of one variable (e.g., women receive shorter sentences than men) may be confounded by severity of offences (e.g., this would not reflect an inconsistency in sentencing if, for example, women actually commit offences that are less severe). In Section 3.5, severity was coded for all s. 5 offences using part of the sentencing guidelines for this offence, and an exploration of severity as confounding was conducted. Analysis of severity and sentence length aligned with logical expectations (greater

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severity associated with greater sentences) and with research demonstrating that severity is a significant predictor of sentence length. Overall, some trends were evident regarding potential confounds (based on the association between severity and other variables), but these did not reveal cause for great concern (assuming s. 5 offences are representative of the dataset as a whole). One strength of the current project is the use of mixed methods. In some cases, combining statistical results with data from interviews and existing literature provided insight into the nature of an effect where the potential impact of severity was uncertain.

From conducting this research, we would suggest there is a need for UK-wide data on the prosecution landscape for extremist actors with a consistent approach to data collection. This would allow not only for certainty regarding number of offenders included, but for more reliable and nuanced measures to be created and utilised in research (more precise data on ethnicity, nationality, details of prior convictions etc.). Given the scope of this study, there are of course areas for future research including the development of a better severity measure, which would capture severity between and within offences. This would also be improved if information was fed directly from the source, since useful details are often missing in publicly available information including the media, limiting post-hoc analyses. In light of our finding on gender, a more thorough examination of this is required to identify if the three framing narratives identified by Galica (2020) are in operation in the UK context.

Overall, despite qualitative evidence and indications from other sources that the prosecution of extremist actors is inconsistent across variables including ethnicity, age, and ideological motivation, we did not find an impact of these extraneous variables, nor did we find evidence in general of sentencing increasing over time. This is positive evidence in favour of consistent use of legislation and sentencing sources, despite reports to the contrary. Differences were found relating to gender (women receive shorter sentences than men) and co-accused (having co-defendants increases sentences). We also found that ideological groups differ in offence type they are most likely to be convicted of, and that this may have indirect effects on sentencing. These are considerations in striving for consistency in the implementation of legislation and in sentencing outcomes.

### ABOUT THIS PROJECT

This Executive Summary comes from the full report produced from the Prosecuting Extremists in the UK project. This project delivers a comprehensive insight into the prosecution landscape for extremist actors in the UK from charges brought, offences prosecuted, and for those extremist actors guilty of criminal offences, the sentences received using an interdisciplinary mixed method approach. You can find all the outputs from this project at: [www.crestresearch.ac.uk/projects/prosecuting-extremists-in-the-united-kingdom/](http://www.crestresearch.ac.uk/projects/prosecuting-extremists-in-the-united-kingdom/)

The Centre for Research and Evidence on Security Threats (CREST) is funded by the UK's Home Office and security and intelligence agencies to identify and produce social science that enhances their understanding of security threats and capacity to counter them. Its funding is administered by the Economic and Social Research Council (ESRC Award ES/V002775/1).