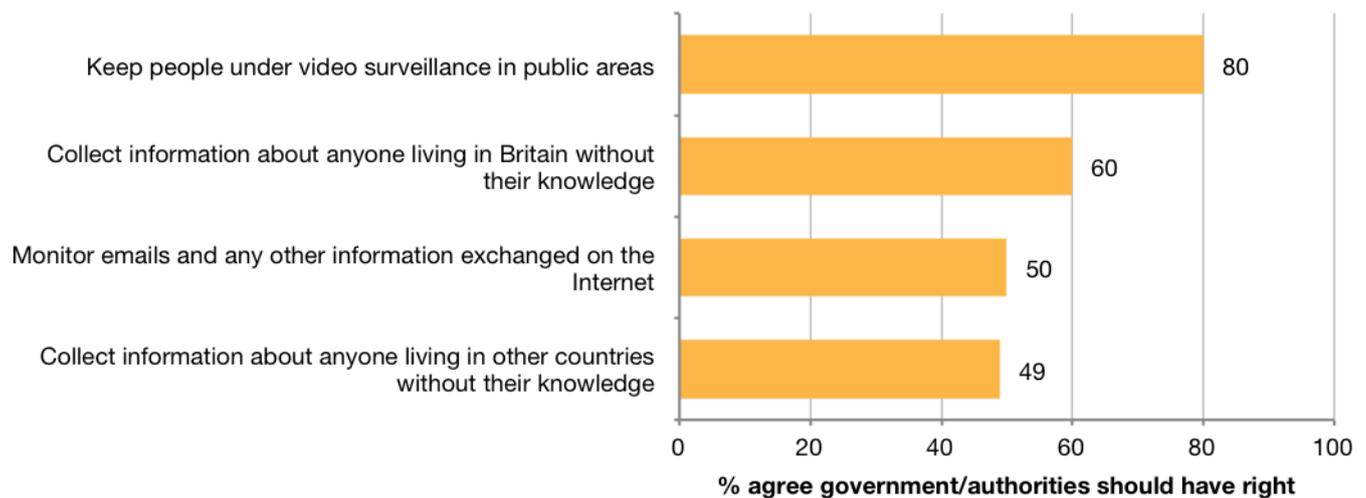


Civil liberties

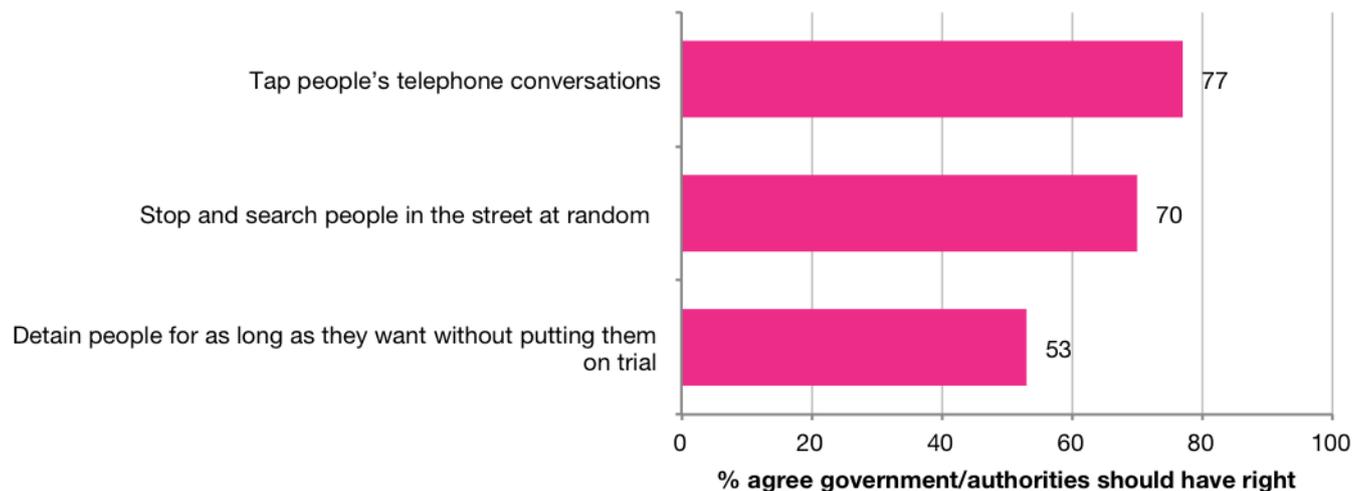
The law, individual rights and the government's role in national security

Public attitudes to the government's role in national security are comparatively iliberal. The public favours stronger state powers to tackle terrorism, with just over half in support of detaining people indefinitely without trial if a terrorist attack is suspected. Currently the law allows detention without charge for a maximum of 14 days.

What should the government be allowed to do?



What should the government be allowed to do at the time of a suspected terrorist attack?



Overview

Public attitudes to civil rights are comparatively illiberal and generally chime with the current direction of public policy – especially in relation to the government’s role in national security. However, the public is relatively divided on a number of issues, especially those relating to freedom of conscience and the rights of extremists, and attitudes have not moved in a consistent direction over the past two decades. And while the public is generally supportive of government activities in the area of national security, levels of support vary across different sections of society.

Public attitudes to civil liberties remain comparatively illiberal

Less than half of the public express a liberal view in relation to almost all of the issues asked about. However, attitudes have not changed in a consistent way over the past two decades.

- Disagreement with the view that the death penalty is the most appropriate sentence for some crimes has doubled since 1986 – from 19% to 37% now. 45% agree with this view.
 - 41% think that detaining people for as long as the government wants without putting them on trial in times of terrorist threat should not be allowed, an increase of 10 percentage points since 2006 (31%). Around half (53%) think that this should be allowed.
-

The public is supportive of government activities in the area of national security

While the balance of public opinion supports government interventions despite the fact that these might limit individual freedoms, different sections of society express diverse views on this matter.

- 80% think the government definitely or probably should have the right to keep people under video surveillance in public areas, while 50% think they should have the right to monitor emails and other information exchanged on the internet.
- People who are older, are less well-educated, are positive about the government’s success in dealing with threats to national security and who are concerned about immigration are all more likely to support government activities in relation to national security.

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A number of social, legal and political developments have changed the landscape against which attitudes to civil liberties need to be understood

Introduction

A consideration of the public's attitudes to civil liberties is very timely. This topic was last examined as part of the British Social Attitudes (BSA) survey series more than a decade ago, based on data collected in 2005 (Johnson and Gearty, 2007). In the interim, a number of social, legal and political developments have changed the landscape against which attitudes to civil liberties need to be understood. In the main, these developments have resulted in public policy moving in an 'illiberal' direction, with the government tending to acquire greater authority and powers, at the expense of individual freedoms – in order to prevent and counter emerging forms of terrorism and criminality. Moreover, at the time of writing, the terrorist attacks that took place in Manchester and London between March and June 2017 forced campaigning for the 2017 General Election to shift its focus towards issues of national security, prompting discussion and assessment of past and future policy approaches in this area.

For the purpose of this chapter (and accepting that this is itself contentious) we adopt a wide and inclusive definition of civil liberties – encapsulating both positive 'rights to' and negative 'freedoms from' – that correlates broadly with more modern conceptions of human rights, guaranteed to individual citizens by law. Both implicate the state but in different ways. A 'right to' involves a correlative duty to provide – such as the right to a fair trial – and to protect from harms caused by others, including non-state private parties, as would be involved in the full and proper realisation of the right not to be tortured. On the other hand, the freedoms that citizens have to assemble, to protest and to express themselves imposes 'simply' a duty of forbearance: citizens should be entitled to do so without interference or surveillance from the government. Many, indeed most, have both negative and positive limbs – the right to liberty imposes a duty on the state not to detain citizens arbitrarily but also to provide an effective mechanism for those who are arrested to challenge the legality of their detention. Similarly, the right to privacy means not only that the state should not subject citizens to unwarranted surveillance (freedom from) but should also ensure that citizens have the right to take effective enforcement against Internet Service Providers (ISPs) in respect of data they hold on their websites.

In the first part of this chapter, we examine attitudes to civil liberties from three distinct stand-points – from the perspectives of the law, the rights of the individual and the role of government in relation to national security (which arguably has the potential to conflict with individual rights and freedoms). We examine whether the current direction of law and policy-making is reflected in the public's attitudes and preferences and, where time series data is available, we consider whether the public's attitudes have followed the same direction as law and policy-making in recent times (by becoming comparatively illiberal), or are now more at odds with the positions of politicians, policy and law-makers than they were in the past.

Given current debates around the government's role in national security, the second part of the chapter seeks to further our understanding of attitudes in this area. In particular we examine how consistently the public supports government intervention in relation to national security and whether individuals tend to support government intervention per se or whether support depends on the nature of the interventions being considered (and their potential impacts on the individual). We also examine the attitudes and characteristics which are linked with and help to explain preferences for the role of government in this area. In doing so, we seek to ascertain how far the current roles and powers of the government in relation to national security chime with public preferences and the extent to which we are united or divided in our views on this topic – our hypothesis being that what we find out in relation to these two issues may shed light on likely public responses to future policy development and legislation in this area.

The changing social, legal and policy context

To inform our examination of the data, we first consider the changing social, legal and policy context against which attitudes to civil liberties need to be interpreted. This context is best understood against the backdrop of several significant changes that have occurred over the past two decades, most notably:

- the advent of international terrorism, in contrast to (in the UK context) terrorism linked to Irish republicanism, nationalism and Unionism;
- rapid technological expansion – in the form of the internet, social media, smart phones – availing citizens of speedier communications and access to information but allowing governments greater powers to monitor their activities;
- the passing of the Human Rights Act (HRA) in 1998 in the first year of the Labour Government, as part of its package of constitutional reform, bringing into domestic law for the first time the package of human rights contained in the European Convention on Human Rights (ECHR);
- EU enlargement in 2004 extending rights of free movement to the citizens of several central and eastern European countries opening up borders, including the UK's, to the prospect of immigration on a much larger scale; and
- the global economic crash of 2008, and bank bail-out, leading across the western world to recovery programmes usually typified as 'austerity' – an often drastic cutting of public sector spending.

These developments have often been in tension, yet have sometimes reinforced or complemented each other, in terms of their impacts on individuals, societies and governments. In general, they have

given citizens greater freedom – of movement, expression and communication, while placing countries such as the UK at greater risk of terrorist attack, while arguably reducing their capacity to respond to or prevent it. As a result, they have given rise to measures which might be regarded as limiting or violating civil liberties – in order to protect life and to counter criminality more generally.

The growth of (generally) Islamic terrorism since 2001 has in turn led to calls for increasing the capacity of the police and MI5/MI6 to engage in surveillance – of Facebook accounts and websites visited – as well as fuelling concerns over immigration, irrespective of whether terrorist attacks (actual or thwarted) are committed by home-grown and home-groomed UK citizens. The HRA over its near 20-year lifetime has seen the notion of ‘human rights’ move to centre-stage in domestic policy debates for the first time yet has been unable to stem the tide of increasingly authoritarian legislation passed by governments of all parties – often in the guise of needing to deal with the terrorist threat. This legislation includes the ban on demonstrations around Westminster – in place between 2005-2011 – as well as a series of Acts designed to enhance the power of the security services and the police to have access to and retain communications data, dating from 2000 with the most recent in 2016. Human rights legislation has also, in general, not prevented a range of counter-terrorism measures being implemented, commencing in 2001 with detention without charge of foreign terrorist suspects and leading to increased policing powers of stop, search, and detention as well as considerable changes to the UK’s historic attachment to ‘open justice’. While the ready and cheap availability of social media sites, such as Facebook, Twitter and WhatsApp, have enhanced the ability ordinary citizens have to organise and participate politically and indeed to counter what has been termed the mainstream media (MSM), this development has also availed the state with greater capacity to monitor its citizens and their everyday activities. Another key shift of the past decade or so has been in the regulatory opportunities afforded to private companies – such as Google and Facebook – and indeed the commercialisation of private, personal information and data. This shift from public to private has been hastened by the current economic climate – the withdrawal of the state from historic public sector provision, in areas such as criminal justice and welfare, in the name of efficiency and cost-saving. Again, while the HRA has ushered in more secure protection for rights such as freedom of expression, the need (or perceived need) to deal with terrorism, particularly indoctrination, has led to curbs on free speech in the guise of criminalising the encouragement of terrorism, by for example glorifying it, and to restrictions on foreign travel even to the extent of removing individuals’ passports.

The three main UK parties have remained fairly consistent in their attitude to the HRA since its inception. Both Labour and the Liberal Democrats fought the 2010 and 2015 General Elections committed to retaining it and to remaining members of the ECHR.

The Conservatives have a longer pedigree, fighting both elections on a pledge to repeal the HRA and replace it with a British Bill of Rights, albeit without a concurrent commitment to leave the ECHR, though this has been floated on several occasions over the past decade. The Conservative approach can be traced back to August 2004 when (then) shadow Home Secretary David Davis announced a review, calling the HRA a “seriously malfunctioning Act” which had “spawned too many spurious rights...fuelled a compensation culture out of all sense and proportion and all too often it seems to give criminals more rights than the victims of crime.” (Hall, 2004). In 2011, with David Cameron (when he was leader of the opposition) having listed the HRA third in his 10 pledges (Pascoe-Watson, 2009) and after their 2010 General Election victory, the Conservative-led coalition established a commission on a Bill of Rights to investigate possibilities. Only the presence of the Liberal Democrats in the coalition prevented full-blown repeal. The commission reached deadlock and reported in 2012 without any clear recommendations. It was not just the Conservatives, either in opposition or in government, who voiced concern though generally this was expressed in response to specific judgments rather than suggesting repeal of the whole human rights framework¹.

While it would not be wholly accurate to portray legal developments over the past 10 years or so as being all one-way illiberal traffic, a fair assessment would conclude that this was the general trend

While it would not be wholly accurate to portray legal developments over the past 10 years or so as being all one-way illiberal traffic, a fair assessment would conclude that this was the general trend. In fact, with one or two rare exceptions, where that path has deviated it has generally been informed by the judicial arm. It is rare indeed for parliament, whether with a Labour majority, coalition or Conservative majority, unilaterally to have acted to liberalise the law. Exceptions would be, in the area of public order – the removal of the absolute ban on demonstrations around Westminster (in 2011) – and repeal of the Identity Cards Act 2006 in 2010, both by the coalition government. By contrast, the judiciary has been active domestically – empowered and perhaps emboldened by the HRA – in seeking to protect human rights and preserve an appropriate balance between state power and civil liberties². On the other hand, instances of legislation that greatly enhance the opportunities for the state to encroach on individual freedom are numerous. Taking as our focus policing powers in relation to counter-terrorism and surveillance, we might note the increase in the power to stop and search without requiring reasonable suspicion (though tightened up following a ruling of the ECHR), powers to detain and question

1 Specific examples include John Reid and Tony Blair after the so-called Afghan hijackers case and David Blunkett after a ruling in relation to the fining of lorry drivers who unwittingly brought in stowaways: <https://www.theguardian.com/politics/2001/dec/06/humanrights.immigration>

2 Notable examples would include: the decision in the Belmarsh case (*A and Others v Secretary of State for the Home Department* [2004] UKHL 56) – holding that it breached the ECHR to detain without charge only foreign terrorist suspects; the successful challenge by Tom Watson to the data retention scheme on grounds that it was in breach of EU Law (specifically the guarantee of privacy), and the challenge to the fact that placement on the sex offender register had no right of appeal (*R (on the application of F and Thompson) v Secretary of State for the Home Department* [2010] UKSC 17). The first and third led to parliament stepping in and passing legislation directly to rectify the matter. The second was referred back to the UK courts, where it had begun, by the EU Court, the CJEU.

at ports and airports, increased powers of proscription, expansion of the number of terrorism-related offences including speaking at terrorist meetings, and the replacement of indefinite detention without charge with control orders (limiting terrorist suspects' rights of association, communication and liberty to move freely) . In terms of surveillance, the last couple of years have seen two major Acts. The most recent, the Investigatory Powers Act 2016, supplants the earlier Data Retention and Investigatory Powers Act 2014. The 2016 Act, known to some as the 'Snooper's Charter', brings together all of the powers already available to obtain communications and data about communications and introduces a 'double-lock' for interception warrants. However, it also allows for obtaining and retaining communications data, such as internet connection records, for law enforcement to identify, for example, which websites or search terms a device has connected to, and makes provision for bulk interception, bulk acquisition, bulk equipment interference and bulk personal dataset warrants.

Generally speaking then, policy and law over the past decade – particularly when instigated by parliament and broadly supported by the main political parties – has tended to move in an illiberal direction, with the government acquiring greater authority and powers, at the expense of individual freedoms. We now turn to assess how far this policy position and direction chimes with current public attitudes and recent trends in attitudinal change.

Attitudes to civil liberties

Attitudes to the law

The BSA survey includes a range of questions which tap into respondents' attitudes to civil liberties in relation to the role of the law. Two long-standing questions measure the extent to which people prioritize freedom of conscience over adherence to the law. First of all, we ask respondents:

In general, would you say that people should obey the law without exception, or are there exceptional occasions on which people should follow their consciences even if it means breaking the law?

We also include a question on the survey each year, as part of our long-standing libertarian-authoritarian scale (further details on which can be found in the Technical details), which asks respondents whether they agree or disagree that:

The law should always be obeyed, even if a particular law is wrong

Currently, less than half of the public express a 'liberal' position in relation to these statements. Slightly less than half (47%) express the view that there are exceptional occasions on which people should follow their conscience (even if this means breaking the law) – while

Only around 1 in 4 (24%) disagree that the law should always be obeyed, even if a particular law is wrong – while around 4 in 10 (38%) agree with this view

an almost identical proportion (46%) express the alternative view – that people should obey the law without exception. Meanwhile, only around 1 in 4 (24%) disagree that the law should always be obeyed, even if a particular law is wrong – while around 4 in 10 (38%) agree with this view (35% neither agree nor disagree). The lower proportion expressing a liberal view in relation to the second question may reflect the availability of the less committal (“neither agree nor disagree”) answer option. Regardless, these data provide little evidence that the public currently prioritizes freedom of conscience over adherence to the law.

The BSA survey includes two further questions on attitudes to the law, which can be interpreted as reflecting attitudes to civil liberties, in terms of individual rights to freedom and rights to life respectively. We regularly ask respondents:

All systems of justice make mistakes, but which do you think is worse ...to convict an innocent person or to let a guilty person go free?

Meanwhile, as part of our libertarian-authoritarian scale, we ask respondents each year whether they agree or disagree with the following statement:

For some crimes, the death penalty is the most appropriate sentence

Once again, there is little evidence of a public consensus on these issues. Just over half (55%) agree with the view that it is worse to convict an innocent person than to let a guilty person go free (a classic liberal standpoint) – while 1 in 4 (23%) adopt the opposite viewpoint (that, of the two options, it is worse to let a guilty person go free). Again, we encounter a considerable degree of ambivalence or uncertainty – with 2 in 10 (19%) indicating that they were unable to choose a response. Meanwhile, when it comes to views on the death penalty, slightly less than 4 in 10 (37%) disagree that for some crimes, the death penalty is the most appropriate sentence, while a slightly larger proportion (45%) agree with this viewpoint (16% neither agree nor disagree).

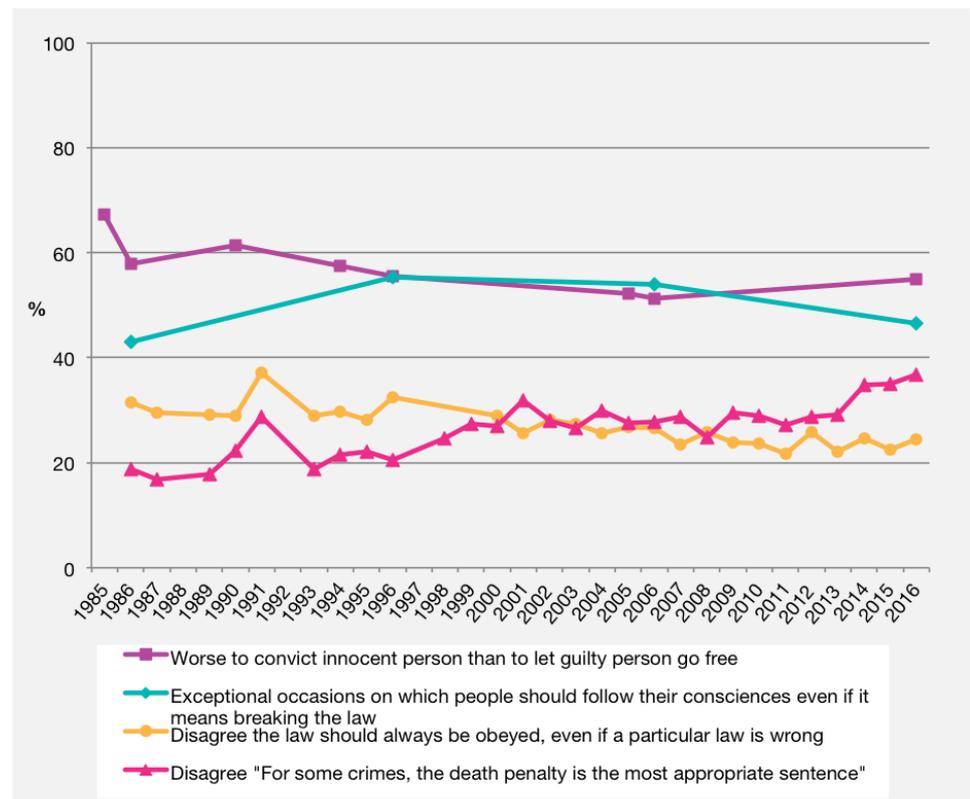
From the perspective of the application of the law, the public is relatively divided in its attitudes to civil liberties, with evidence of a considerable degree of ambivalence

Clearly then, from the perspective of the application of the law, the public is relatively divided in its attitudes to civil liberties, with evidence of a considerable degree of ambivalence. In none of the four scenarios asked about do a substantial majority of the public favour the more ‘liberal’ standpoint. This might imply that there is little evidence that public views are at odds with the illiberal direction in which policy and law in the UK in relation to civil liberties appears to be moving. We can explore this assumption further by examining whether responses to these questions have moved in a similar direction to the broad thrust of government policy (outlined in the previous section) over the past two decades.

Figure 1 depicts support for the ‘liberal’ position in relation to each of the questions discussed above and how this has changed over the

lifetime of the survey (in each case, the 'non-liberal' view has moved in a roughly opposing direction). A number of trends are immediately apparent. On the two questions which measure support for freedom of conscience as opposed to adherence to the law, support for the liberal position has declined since the early 1990s. Support for the view that there are exceptional occasions in which people should follow their own conscience, even if this means breaking the law, rose between the early 1980s and the mid 1990s, but has now declined to a level not significantly different to when the question was first asked (43% in 1986, 47% now). Similarly, disagreement with the view that the law should be obeyed, even if a particular law is wrong has declined from a high point of 37% in 1991 to 24% now – somewhat lower than when the question was first asked in 1986. These trends lend weight to the theory that the broad direction of British policy and law in relation to civil liberties reflects, rather than conflicts with, changes in public attitudes.

Figure 1 Proportions expressing liberal attitudes to the law, 1985-2016



The data on which Figure 1 is based can be found in the appendix to this chapter

When it comes to our measures of support for individual rights (to freedom and to life), a different pattern is evident – with greater evidence of a recent increase in support for the liberal position

When it comes to our measures of support for individual rights (to freedom and to life), a different pattern is evident – with greater evidence of a recent increase in support for the liberal position. Agreement with the view that it is worse to convict an innocent person than to let a guilty person go free declined up until 2006 – from 67% in 1985 to 51%, although there is some evidence that this trend has reversed in the last decade (support has risen by 4 percentage points to 55% – though, given the small number of data

Disagreement with the view that the death penalty is the most appropriate sentence for some crimes has risen by 9 percentage points since 2006 and has almost doubled since the question was first asked in 1986

points available, it is not possible to pin-point the exact timing of this change). However, it is in attitudes to the death penalty that we see the most consistent and dramatic shift towards a liberal position. Disagreement with the view that the death penalty is the most appropriate sentence for some crimes has risen by 9 percentage points since 2006 and has almost doubled since the question was first asked in 1986 – having risen by 18 percentage points overall – from 19% to 37%. Over the same period, levels of agreement with the view that the death penalty is the most appropriate sentence for some crimes changed even more dramatically, declining from 74% in 1996 to 45% now. Given the fact that the death penalty was abolished for murder in Britain in 1969 (but was technically still in force until 1999, when it was formally abolished by the signing of the Sixth Protocol of the European Convention of Human Rights), this trend indicates that, while public attitudes have to some extent moved into line with public policy, almost half still adopt a position which is less liberal.

Generally speaking then, attitudes to civil liberties, as they relate to the law, do not appear to have moved in a consistent direction in recent times. Yet, overall, they do not appear to be dramatically at odds with the recent general direction of government policy. While the public is clearly divided on these issues, in no case does a sizable majority support the more liberal position. And, generally speaking, attitudes have shifted over the last two decades in an illiberal direction or, in the case of the death penalty, still reflect a position, albeit to a lesser degree, which is less liberal than current policy and law.

The rights of individuals

We next consider a number of questions which measure attitudes to civil liberties from the perspective of individual freedoms and rights – in terms of freedom of expression and the rights to assembly and to protest. The BSA survey has asked two sets of questions which encapsulate attitudes to these rights and freedoms at regular intervals since 1985 – the first in relation to people or organisations in general and the second with regard to people whose views are considered extreme. Specifically, we ask respondents:

There are many ways people or organisations can protest against a government action they strongly oppose. Please show which you think should be allowed and which should not be allowed ...

*Organising public meetings to protest against the government
Organising protest marches and demonstrations*

There are some people whose views are considered extreme by the majority. Consider people who want to overthrow the government by revolution. Do you think such people should be allowed to...

... hold public meetings to express their views?

... publish books expressing their views?

As shown in Tables 1 and 2, the public is more supportive of the rights of “people and organisations” to express their views, compared with people whose views are considered extreme. The vast majority, around 9 in 10, think that “people or organisations” should be allowed to organize public meetings to protest against the government, while almost 7 in 10 think they should be allowed to organise protest marches and demonstrations. Only small minorities disagree that people or organisations should be allowed to undertake these activities (9% and 20% respectively).

Table 1 Attitudes to the right of people and organisations to protest against the government, 1985–2016

	1985	1986	1990	1994	1996	2005	2006	2016
% saying “definitely” or “probably” should be allowed								
Organising public meetings to protest against the government	85	83	88	84	85	84	86	87
Organising protest marches and demonstrations	66	58	70	68	68	73	77	73
<i>Unweighted base</i>	1530	1321	1197	970	989	860	930	1563

When it comes to the rights of those whose views are considered extreme to express their views, the public is more divided. Around half in each case think that such individuals should be allowed to hold public meetings to express their views (while 46% think this should probably or definitely not be allowed) or should be allowed to publish books to the same ends (38% express the opposing view). Clearly, the public draws a distinction between the freedoms and rights they think that people or organisations in general, and extremists in particular, should be allowed. In this sense, it is arguable that the tightening of public policy in relation to the latter group chimes with public attitudes by better reflecting this distinction.

The public is more supportive of the rights of “people and organisations” to express their views, compared with people whose views are considered extreme

Clearly, the public draws a distinction between the freedoms and rights they think that people or organisations in general, and extremists in particular, should be allowed

Table 2 Attitudes to the rights of people whose views are considered extreme, 1985–2016

	1985	1990	1996	2005	2006	2016
% saying people who want to overthrow the government by revolution should “definitely” or “probably” be allowed to ...						
... hold public meetings to express their views	52	49	47	42	46	50
... publish books expressing their views	64	58	58	47	50	53
<i>Unweighted base</i>	1530	1197	989	860	860	1563

Support for the right of people and organisations to protest against the government by organising public meetings has remained relatively stable since it was first measured in the mid 1980s, with between 8 in 10 and 9 in 10 people expressing support at any given point in time. Support for the organisation of protest marches and demonstrations has been rather more volatile, but has remained comparatively high over the past decade, with slightly more than 7 in 10 endorsing these activities. Different trends are evident in relation to the rights of extremists however. The level of support for the right of extremists to hold public meetings is not significantly different to that recorded in 1985; about half express support for this activity, although support has dipped and risen in the intervening decades. On the other hand, while support for the rights of extremists to publish books is considerably lower than when first measured in 1985 (53% compared with 64%) it has actually risen slightly, but significantly, in the past decade. In this area then, it is arguable that the adoption of a more ‘illiberal’ position by the government over the past two decades does not reflect (and has not prompted) comparable shifts in public opinion.

The role of government in national security

We finally consider two sets of questions which measure attitudes to civil liberties from the perspective of the role of the government in relation to national security. The first set of three questions, introduced in 2006, seeks to measure public preferences for the government’s role in a time of terrorist attack. We ask respondents:

Suppose the government suspected that a terrorist act was about to happen. Do you think the authorities should have the right to...

... detain people for as long as they want without putting them on trial?

... tap people’s telephone conversations?

... stop and search people in the street at random?

In each instance, the proposed government action can be viewed as being in direct conflict, to different degrees, with individual rights

and freedoms – for instance, the right for the authorities to tap people’s telephone conversations can be seen as conflicting with an individual’s right to privacy.

As shown in Table 3, in each case at least a majority of the public supports the government having the right to undertake the specified activity in a time of a suspected terrorist attack. Around half (53%) think that the government should have the right to detain people for as long as they want, without putting them on trial, while 7 in 10 (70%) think the government should be able to stop and search people in the street at random. Meanwhile, almost 8 in 10 (77%) think that the government should have the right to tap people’s telephone conversations. In each case, only a minority express what can be interpreted as the ‘liberal’ view – that prioritizes individual civil liberties over the right of the government to intervene. Opposition to government intervention is most widespread in relation to detaining people indefinitely without putting them on trial, with 41% opposing this – while only around 2 in 10 oppose allowing each of the other activities asked about. Given that the questions broadly reflect the nature of the activities the government is currently permitted to undertake in times of a suspected terrorist attack and, in the case both of detention and stop and search³ specify even greater powers than currently exist, these data suggest that public preferences for the government’s role, at least in a time of terrorist attack, broadly reflect the current policy position.

Opposition to government intervention is most widespread in relation to detaining people indefinitely without putting them on trial, with 41% opposing this

Table 3 Attitudes to the rights of government in times of terrorist attack, 2006 and 2016

	2006	2016
Detain people for as long as they want without putting them on trial	%	%
Government should have right	64	53
Government should not have right	31	41
Tap people’s telephone conversations	%	%
Government should have right	73	77
Government should not have right	20	16
Stop and search people in the street at random	%	%
Government should have right	73	70
Government should not have right	21	24
<i>Unweighted base</i>	930	1563

However, a comparison of these levels of support with those recorded in 2006 does not suggest that attitudes have moved unambiguously in an illiberal direction, in line with government policy. Indeed, opposition to detaining people indefinitely has risen by 10

³ Detention has, since 2011, been limited to 14 days without charge, while stop and search since 2012 has required a senior officer reasonably to suspect that an act of terrorism will take place before authorising the blanket power to stop and search.

Opposition to detaining people indefinitely has risen by 10 percentage points since 2006 – suggesting that public opinion has moved in the opposite direction to policy and legal change around detention

percentage points since 2006 – suggesting that public opinion has moved in the opposite direction to policy and legal change around detention (and indeed may reflect a reaction to increased government powers in this area). On the other hand, however, opposition to tapping telephone conversations has fallen slightly but significantly by 4 percentage points, while opposition to stop and search has not changed significantly over the same period – despite the more extensive and wide-ranging use of these two practices detailed previously.

In the BSA 2016 survey, we introduced a further set of questions to measure support for the government's role in national security. We asked respondents:

Now some questions about civil liberties and public security.

Do you think that the British government should or should not have the right to do the following:

Keep people under video surveillance in public areas?

Monitor emails and any other information exchanged on the internet?

Collect information about anyone living in Britain without their knowledge?

Collect information about anyone living in other countries without their knowledge?

As shown in Table 4, levels of support for the different activities asked about vary markedly. While 8 in 10 (80%) people think that the government should have the right to keep people under video surveillance in public areas, only 5 in 10 (50%) think they should have the right to monitor emails and other information exchanged on the internet – perhaps because, in contrast to the first activity asked about, this is viewed as a 'private' rather than a 'public' sphere. Meanwhile, when it comes to collecting information about individuals without their knowledge, 6 in 10 (60%) think the government should have the right to do this in relation to people living in Britain, although the level of support is somewhat lower when this activity is proposed in relation to those living abroad (around 5 in 10 (50%) support this). Interestingly, less than half in each instance oppose the government having these rights – a similar pattern to that found in relation to government rights in a time of imminent terrorist attack discussed previously. Taken together, these data suggest considerable public support for government monitoring and surveillance of individual activities, both in peacetime and in time of terrorist attack.

Table 4 Attitudes to the rights of government

		Government "definitely" or "probably" should have the right	Government "definitely" "probably" should <u>not</u> have the right	<i>Unweighted base</i>
Keep people under video surveillance in public areas	%	80	14	1531
Monitor emails and any other information exchanged on the internet	%	50	43	1531
Collect information about anyone living in Britain without their knowledge	%	60	33	1531
Collect information about anyone living in other countries without their knowledge	%	49	42	1531

Overall then, we find little evidence that the current nature and direction of government policy is at odds with the views and preferences of a majority of the public. Nevertheless, it is important to recognize the substantial nuances in public attitudes; while in the area of the law the public is fairly evenly divided, with around half expressing an illiberal position in relation to civil liberties, there is markedly greater support for civil liberties when examined in relation to individual rights (although this support becomes more muted when those rights are applied to extremists). Meanwhile, when it comes to the role of government, there is considerable support for an 'authoritarian' position in relation to national security – with majorities of the public supporting the range of activities the government is currently permitted to undertake in this area, which can be regarded as being in conflict with civil liberties. However, with the exception of attitudes to the death penalty and attitudes to detaining people indefinitely, there is little evidence of substantial attitudinal change over the past two decades. Attitudes to the death penalty continue to remain more illiberal than the current legal position, although they appear to be gradually moving in line with public policy. Meanwhile, opposition to the government's right to detain suspects indefinitely in times of terrorist attack has increased, which may be in response to the extension of government powers in this area.

Given current debates around the government's role in national security, we next examine attitudes on this topic in more detail – examining in particular the extent to which individual support for government action in relation to national security is consistent or nuanced and the attitudes and characteristics that link with and may help explain public preferences in this area.

With the exception of attitudes to the death penalty and attitudes to detaining people indefinitely, there is little evidence of substantial attitudinal change over the past two decades

National security: understanding public preferences

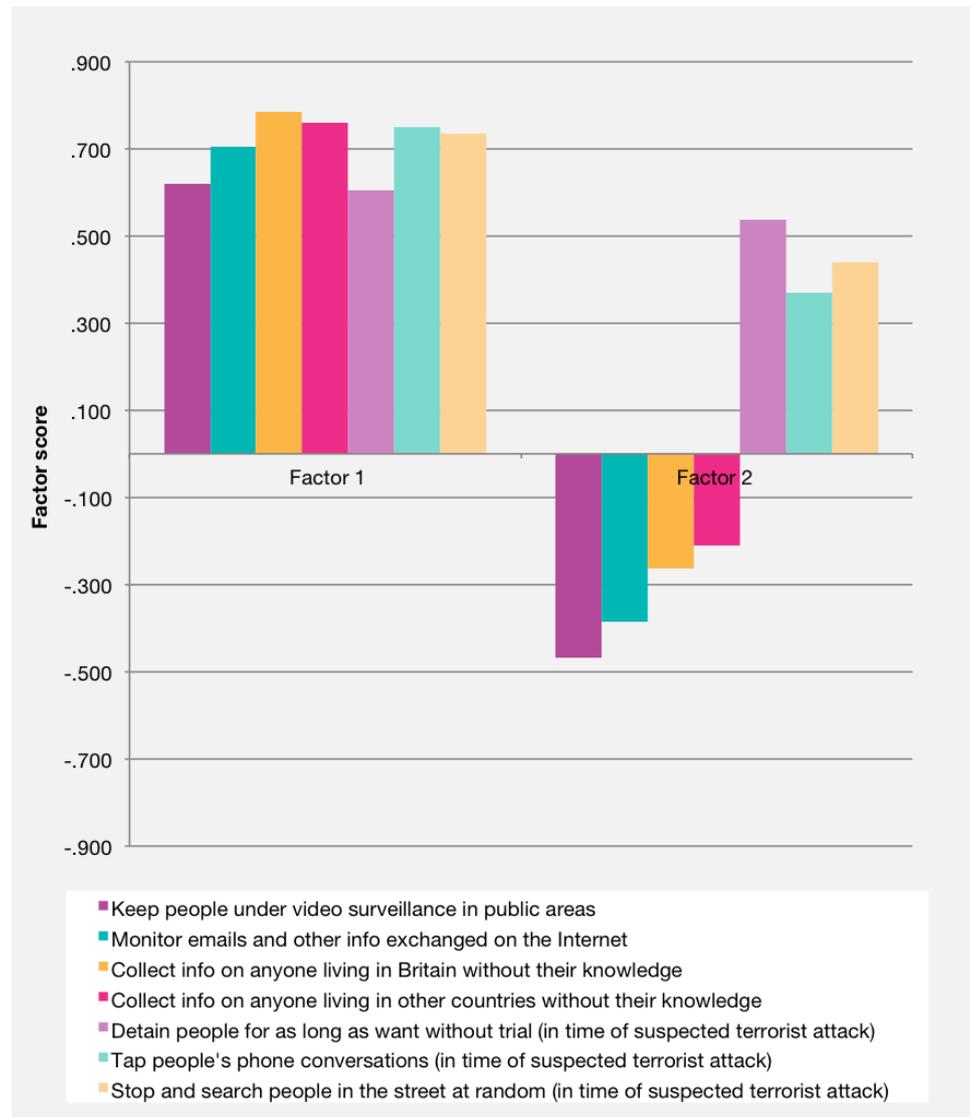
How consistent is support for government action?

As noted above, around half or more of the public (and often substantially higher proportions) think that each of the seven actions the government might undertake in relation to national security, when a terrorist attack is suspected or in peacetime, should be allowed. Do the majority of individuals tend to support government action in this area per se, or is support more nuanced, depending on the types of actions being considered and their potential impact on civil liberties? An examination of the correlations between each pair of items suggests that the former assumption is correct. Specifically, we find high positive correlations between support for the government tapping telephones and undertaking stop and search in a time of terrorist attack, and between support for the government collecting information about anyone living in Britain, and anyone living abroad, without their knowledge⁴. Overall, we find a moderate or high degree of correlation between nine of the 21 pairs of items examined. This suggests that it is worth considering how broader attitudes and values may be underpinning and influencing specific preferences in this area.

We undertook factor analysis to identify the presence of any ‘latent’ attitudes – that is, broader attitudes or value systems which might explain some degree of the variation on the seven measures of attitudes to the government’s role in relation to national security. A model, depicted in Figure 2, emerged containing two factors which explain 66% of the variance in attitudes on the seven measures. The first of these ‘factors’, which explains 51% of this variance, can be interpreted as representing general support for government intervention in the area of national security. This factor might reflect an ‘illiberal’ stance in relation to civil liberties per se or more general support for government intervention or ‘big’ government.

⁴ For the purpose of this analysis, a very high correlation was defined as 0.8-1, a high correlation as 0.6-0.8, a moderate correlation as 0.4-0.6, a low correlation as 0.2-0.4 and a very low correlation as 0-0.2 (or, in each case, the negative equivalents).

Figure 2 Factors underpinning preferences for the role of government in the area of national security



The data on which Figure 2 is based can be found in the appendix to this chapter

While the second factor explains far less of the variance (16%) in attitudes in this area, it nevertheless offers an interpretation of a further cross-cutting factor that may be influencing preferences in relation to the seven government activities examined. This second factor links with support for the three government activities asked about in relation to a time of terrorist attack - but links with opposition to allowing government to undertake the remaining four activities, where the specific circumstances in which they would be permitted were not specified. This suggests that views in this area to some extent reflect a reaction to the circumstances of government action, with a perception that actions are more acceptable or justified in times of suspected terrorist attack.

Broadly speaking then, this analysis lends support to the idea that views about the activities government should be allowed to

Views about the activities government should be allowed to undertake in the area of national security are, to a large extent, underpinned by broader attitudes, values and considerations

undertake in the area of national security are, to a large extent, underpinned by broader attitudes, values and considerations. This suggests that public preferences for government actions in relation to national security might tend to move in a consistent direction in the future – although the data on attitudes to detention presented above indicates that this may not always be the case and that reactions to policy change may have a greater impact.

Given there is considerable evidence that individuals tend to support or oppose government action in relation to national security per se, and that this support or opposition is underpinned by more general attitudes and considerations, we finally consider which sections of society tend to support and oppose government action in this area.

Who supports and opposes government action?

For each respondent we created a ‘role of government’ score (out of seven) with a high score reflecting the belief that a comparatively large number of government actions should definitely or probably be allowed and a low score indicating approval for a smaller number of government actions.

We envisaged that levels of support for government action in the area of national security might vary by a range of demographic characteristics and broader attitudes and values. Previous research has indicated that attitudes to civil liberties are linked to age and levels of education, with people who are younger and more highly educated being more likely to express a ‘liberal’ view (in other words, opposing the government’s right to undertake various activities) (Johnson and Gearty, 2007). This was indeed the case; when we analysed our ‘role of government’ score by these demographic characteristics; the average number of government actions supported rose significantly with age, with those aged 18-24⁵ and 25-34 expressing support for 3.6 and 4.2 government actions compared with 5.1 and 4.8 for those aged 65-74 and 75+. Similarly, people with a degree supported 4.3 interventions on average, compared with 4.8 among those with no qualifications. Interestingly, we did not find any significant variation by sex. We also envisaged that location might make a difference, as those living in London might perceive themselves to be at greater risk of a security or terrorist threat and thus be more supportive of government intervention in this area. However, this was not the case; the level of support for government actions expressed by those living in London was not significantly different to that reported by those living in other regions.

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Logically, it seems plausible that attitudes to government intervention in the area of national security might relate to a range of broader value systems and to attitudes in associated areas. We have already seen that a factor analysis of these questions reveals a latent attitude or value system, explaining more than half of the variation in attitudes in this area. It therefore comes as no surprise that an analysis by our

⁵ Caution needs to be applied to this finding, as the number of respondents aged 18-24 is <100.

libertarian-authoritarian scale reveals that those who generally hold a ‘libertarian’ outlook are less supportive of government intervention, with the opposite being true for those who tend to hold an ‘authoritarian’ outlook. While the former group supports government intervention in 3.0 scenarios on average, the latter favours an average of 5.1 government activities. This suggests that the latent attitude identified by our factor analysis may in fact reflect a traditional libertarian-authoritarian value system.

There is a substantial literature demonstrating that attitudes to civil liberties are strongly associated with political outlook, although the most recent analysis of BSA data on this issue (Johnson and Gearty, 2007) indicated that this relationship had become less marked. Nevertheless, we find that those classified as having a ‘left-wing’ outlook on our left-right scale (see Technical appendix for further details) support 4.4 of the government actions asked about, while the equivalent average figure for those with a ‘right-wing’ outlook is 5.3. It has been argued that attitudes to civil liberties of supporters of different political parties have tended to converge as the stances of ‘their’ parties have become more alike, with the Labour Party in particular coming to advocate a less libertarian position throughout the late 1990s and early 2000s). Indeed, as demonstrated in our overview of recent policy and legislation, the positions of the main political parties have not been substantively different in the past decade, which might lead us to anticipate that the views of ‘their’ supporters in relation to national security are now fairly similar. Nevertheless, we find that the average level of support among Labour supporters for government actions in the area of national security is still markedly lower than that expressed by Conservative supporters – 4.0 compared with 5.3 (with the views of those with no party affiliation, at an average of 4.4, falling in between them). This may, in part, be explained by the fact that people whose party is in power tend to be more supportive of the activities the government of the day undertakes (Butler and Stokes, 1974).

The average level of support among Labour supporters for government actions in the area of national security is still markedly lower than that expressed by Conservative supporters

In addition to these broader attitudes, it seemed likely that attitudes to government intervention in the area of national security might link with and be influenced by attitudes to a range of related issues. In the first place, those with more favourable attitudes to the government might be more supportive of them undertaking the range of actions asked about. This indeed turns out to be the case. We regularly ask respondents how much they “trust British governments of any party to place the needs of the nation above the interests of their own political party”. Those who were more trusting of government tended to be more supportive of government action in the area of national security. People who trust government “just about always” or “most of the time” supported government intervention in an average of 4.8 scenarios, compared with 4.1 for those who said they trust government “almost never”.

The 2016 survey also asked respondents how successful they thought the government in Britain is nowadays on a range of matters

including “dealing with threats to Britain’s security”. Generally, we found the public’s assessment to be positive, with 72% rating the government as “very” or “quite successful”, and just 9% regarding them as “very” or “quite unsuccessful”. It was envisaged that attitudes on this matter could link with support for government intervention in the area of national security in a number of ways. First, it might be that those who view the government as inherently successful at dealing with threats to national security are more supportive of government intervention in this area – because they see it as having the potential to achieve effective results. Alternatively, it might be that those who perceive the government as unsuccessful in this area do so because they do not feel it has all the powers needed to be successful (and thus support a greater number of powers). On balance, the evidence suggests our first theory is more likely to be true; people who think the government is “very successful” at dealing with threats to national security support an average of 5.2 actions, compared with 3.6 for those who view the government as “neither successful or unsuccessful” and 4.3 for those (albeit a small proportion) who perceive the government to be “quite” or “very unsuccessful”. Therefore, on both these measures, those who hold a more positive view of the government tend to be more supportive of its role in the area of national security.

Finally, we envisaged that an individual’s support for government intervention in the area of national security might be mediated by more general priorities and concerns. The 2016 survey included a question asking respondents to identify, from a list, the areas they are “concerned or worried about at the moment”. Two of the options listed theoretically have the potential to intersect with attitudes to the government’s role in relation to national security. It seemed plausible that people who are concerned about “immigration” or “crime in your local area” might be more supportive of government intervention in the area of national security – as a mechanism for addressing these concerns. Indeed, when BSA data on civil liberties was last analyzed, concern about terrorism was found to have a considerable role to play in promoting support for government intervention (Johnson and Gearty, 2007). In both instances, this still appears to be the case. People who identify immigration as a current concern support government intervention in an average of 5.2 cases (compared with 4.3 for those who are not concerned about immigration). Less markedly, those who are concerned about crime in their local area support government action in the area of national security in 4.9 instances (compared with 4.5 for those who are not concerned about this issue).

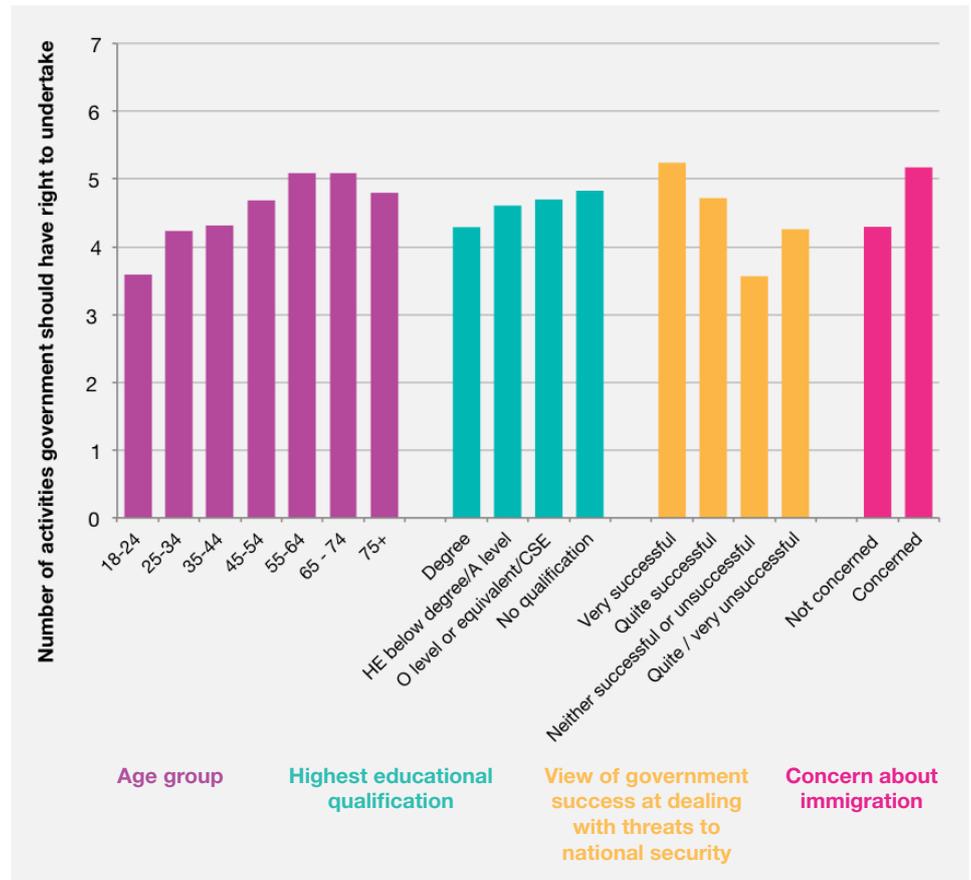
Clearly then, support for government action in the area of national security links with, and may be influenced by, a wide range of characteristics, and broader and related attitudes. However, we know that many of these characteristics and attitudes relate to each other; for instance, younger age groups tend to be more highly educated (due to the recent expansion in higher education), while those who

People who identify immigration as a current concern support government intervention in an average of 5.2 cases (compared with 4.3 for those who are not concerned about immigration)

express a 'libertarian' outlook also tend to be left-wing. To identify the characteristics which are significantly associated with attitudes to the government's role in the area of national security, once the relationships between them have been controlled for, we ran a linear regression model with the dependent variable being the number of government actions (out of seven) which the respondent thinks should be allowed. The results of this analysis are presented in the appendix to this chapter.

Of the seven measures included in the model (where a significant relationship with our 'role of government' score was identified in the analysis reported above), four were found to be significantly associated with support for government activities in the area of national security – age, level of education, views on the success of the British government in dealing with threats to national security, and current concern about immigration. The average 'role of government' scores of groups defined by these characteristics are depicted in Figure 3. The extent to which the individual holds right or left-wing views and their level of trust in government were less important in explaining attitudes to this topic, although both factors remain significantly associated with the 'role of government' score, even when their links with other measures had been controlled for. Concern about crime in the local area on the other hand did not remain significantly associated with levels of support for government intervention.

Figure 3 'Role of government' score, by age, highest educational qualification and related attitudes



The data on which Figure 3 is based can be found in the appendix to this chapter

Clearly, a wide range of characteristics link with support for government activities in relation to national security and, in most instances, this remains the case when the relationships between them have been controlled for. Unsurprisingly, we identified very similar results when we ran regression analysis on respondent scores on the first of our two latent attitudes or value systems, identified by the factor analysis reported above, as shown in Table 5 below. However, our second factor – which we define as representing support for government intervention only in times of terrorist attack, was only significantly associated with trust in government, once the relationships between all seven measures had been controlled for. Those who trusted government only some or none of the time achieved significantly more negative scores on this factor – suggesting that trust in government is key in driving support for government intervention in times of terrorist attack, as opposed to in peacetime.

Table 5 Characteristics linked with latent attitudes influencing support for government intervention

	Factor 1	Factor 2
	Underlying support for government activities in area of national security	Support for intervention only in times of terrorist threat
Highest educational qualification	++	
Age group	++	
Left-wing vs. right wing		
Trust in government	++	+
Perceived success of government in dealing with threats to national security	++	
Concern about crime		
Concern about immigration	++	

+=significant at 95% level ++=significant at 99% level

What do these findings mean for the future development of public preferences for the government's role in relation to national security? In the first instance they suggest that, to some degree, levels of support for different types of government intervention are likely to move in unison, given they are largely underpinned by a broader value system which could potentially be interpreted as reflecting libertarian-authoritarian values. However, this conclusion should not be over-stated; the existence of a second underlying factor, distinguishing between activities in times of terrorist attack and peace-time indicates that the public does differentiate between the circumstances in which interventions are undertaken, while the recent decline in support for the right of the government to detain suspects indefinitely suggests that public views may also react to policy changes in relation to specific types of interventions. Meanwhile, it is not necessarily clear how future changes in the prevalence of the demographic characteristics and attitudes associated with support for government intervention may impact on the balance of public opinion in this area. While the trend towards an ageing society would suggest an increase in support for government activities (as the proportions of the populations in older age groups, which tend to be more supportive, are set to increase), the tendency towards a more educated society would imply the opposite pattern. What is clear, however, is that changes in levels of trust in government, in general and in relation to national security specifically, are likely to impact on levels of support for its actions in this area. In other words, the more successful the government is perceived to be, the more likely the public is to endorse activities in relation to national security that potentially conflict with civil liberties.

It is not necessarily clear how future changes in the prevalence of the demographic characteristics and attitudes associated with support for government intervention may impact on the balance of public opinion in this area

Conclusions

Overall, the public's attitudes to civil liberties can be characterized as being comparatively illiberal. Although attitudes clearly vary in relation to the context being considered (albeit the application of the law, individual rights of assembly, protest and expression or the role of government in relation to national security), on almost all measures less than half of people support what could be termed the 'liberal' position. Indeed, a majority of the public tend to support a view which reflects, or is even less liberal than, current public policy and law. In this sense, while there is little evidence of a consistent pattern of attitudinal change over the past two decades, we cannot conclude that the 'illiberal' direction in which British policy and law has recently travelled is at odds with the preferences of the public – although there is some evidence that the public has responded negatively to the introduction of more authoritarian policies in relation to the detention of terrorist suspects specifically.

In particular, we see considerable public support for many of the activities the government might undertake in the name of national security in times of terrorist attack and peacetime (all of which have the potential to limit individual rights and freedoms in some way). Preferences for the role of government in this area are clearly underpinned by a broader value system – which is likely to reflect libertarian-authoritarian values; however, they also appear to be mediated by age, level of education, attitudes to government and broader concerns, primarily immigration. This multi-faceted relationship makes it difficult to predict precisely how public preferences in relation to national security might change in the coming years – particularly given the fast-moving policy, legal and technological environment which may continue to alter the context in which attitudes in this area need to be understood.

A majority of the public tend to support a view which reflects, or is even less liberal than, current public policy and law

We see considerable public support for many of the activities the government might undertake in the name of national security in times of terrorist attack and peacetime (all of which have the potential to limit individual rights and freedoms in some way)

Acknowledgements

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Appendix

The data for Figure 1 are shown below.

Table A.1 Proportions expressing liberal attitudes to the law, 1985-2016										
	1985	1986	1987	1989	1990	1991	1993	1994	1995	1996
% saying there are exceptional occasions on which people should follow their consciences even if it means breaking the law	n/a	43	n/a	55						
% saying it is worse to convict an innocent person than to let a guilty person go free	67	58	n/a	n/a	62	n/a	n/a	n/a	58	56
<i>Unweighted base</i>	1530	1321			1197				970	989
% disagreeing "for some crimes, the death penalty is the most appropriate sentence"	n/a	19	17	18	22	29	19	22	22	21
% disagreeing "the law should always be obeyed, even if a particular law is wrong"	n/a	32	30	29	29	37	29	30	28	33
<i>Unweighted base</i>		1321	1281	2604	2430	1257	1306	2929	3135	3085
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
% saying there are exceptional occasions on which people should follow their consciences even if it means breaking the law	n/a	54	n/a							
% saying it is worse to convict an innocent person than to let a guilty person go free	n/a	52	51	n/a						
<i>Unweighted base</i>								860	930	
% disagreeing "for some crimes, the death penalty is the most appropriate sentence"	25	27	27	32	28	27	30	28	28	29
% disagreeing "the law should always be obeyed, even if a particular law is wrong"	n/a	n/a	29	26	28	27	26	27	27	24
<i>Unweighted base</i>	2531	2450	2980	2795	2900	3621	2609	3559	3748	3578

Table A.1 Proportions expressing liberal attitudes to the law, 1985-2016 (continued)

	2008	2009	2010	2011	2012	2013	2014	2015	2016
% saying there are exceptional occasions on which people should follow their consciences even if it means breaking the law	n/a	47							
% saying it is worse to convict an innocent person than to let a guilty person go free	n/a	55							
<i>Unweighted base</i>									1563
% disagreeing "for some crimes, the death penalty is the most appropriate sentence"	25	30	29	27	29	29	35	35	37
% disagreeing "the law should always be obeyed, even if a particular law is wrong"	26	24	24	22	26	22	25	23	24
<i>Unweighted base</i>	3990	2942	2791	2845	2855	2832	2376	3670	2400

n/a = not answered

The data for Figure 2 are shown below.

Table A.2 Factors underpinning preferences for the role of government in the area of national security

	Component matrix	
Variable	1	2
Video surveillance in public areas	.620	-.467
Monitor emails / other info exchanged on the Internet	.705	-.384
Collect info on anyone living in Britain	.785	-.262
Collect info on anyone living in other countries	.759	-.210
Detain people for as long as want without trial	.604	.538
Tap people's phone conversations	.750	.370
Stop and search in the street at random	.734	.440

The data for Figure 3 are shown below.

Table A.3 'Role of government' score, by age, educational qualification and related attitudes

Variable	Category	Number of activities government should have right to undertake	<i>Unweighted base</i>
Age group	18-24	3.6	78
	25-34	4.2	195
	35-44	4.3	230
	45-54	4.7	255
	55-64	5.1	263
	65-74	5.1	278
	75+	4.8	177
Highest educational qualification	Degree	4.3	371
	Higher education below degree/A level	4.6	417
	O level or equivalent/CSE	4.7	408
	No qualification	4.8	250
View of government success at dealing with threats to national security	Very successful	5.2	268
	Quite successful	4.7	832
	Neither successful or unsuccessful	3.6	196
	Quite / very unsuccessful	4.3	138
Concern about immigration	Not concerned	4.3	976
	Concerned	5.2	504

In Table A.4 we present an OLS regression where the dependent variable is the 'role of government' score in relation to national security described in the chapter. A positive coefficient indicates a higher score while a negative coefficient indicates a lower score. For categorical variables, the reference category is shown in brackets after the category heading

Table A.4 'Role of government' score (OLS regression)

	Standardised Coefficient (Beta)	Standard error	p value
Highest educational qualification (degree)			
Higher education below degree/A level	*.110	.193	.011
O level or equivalent/CSE	** .142	.202	.002
No qualification	.075	.253	.092
Age group (18–24)			
25-34	.070	.299	.171
35-44	** .148	.286	.008
45-54	** .195	.288	.000
55-64	** .200	.293	.000
76-74	** .181	.308	.001
75+	.094	.354	.054
Left-right scale (left-wing)			
Neither	*.097	.156	.010
Right-wing	*.085	.246	.027
View of government success in dealing with threats to national security (very successful)			
Quite successful	**-.194	.186	.000
Neither successful or unsuccessful	**-.266	.257	.000
Quite / very unsuccessful	**-.180	.285	.000
Trust in government (just about always / most of the time)			
Only some of the time	-.039	.188	.402
Almost never	*-.117	.220	.014
Concern about crime in local area (concerned)			
Not concerned	.054	.184	.149
Concern about Immigration (concerned)			
Not concerned	** .154	.167	.000
Constant			
R2 (adjusted)	.162		
<i>Unweighted base:1480</i>			

*=significant at 95% level **=significant at 99% level