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Aviation security without dogma

Getting the right mix of anti-terrorist measures requires a careful analysis of the safety, dignity and liberty issues at stake

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The events of 25 December force us to confront, once again, the question of how the costs of aeroplane security should be distributed among would-be passengers, and what the nature of those costs should be.

Controversy over the use of profiling at airports is charged because what is at issue is not simply who should bear the costs of intrusive, possibly frightening, and generally annoying and disruptive security searches, but how we should rate the badness of such things relatively and absolutely.

So, those who think some forms of religious, ethnic or country-based profiling are justified tend to see the costs of such profiling as relatively slight – a matter of inconvenience and possible embarrassment, but not much more – while opponents tend to stress the ways that people can be humiliated, ostracised and threatened because they are seen as real or incipient terrorists. In this, controversy over the use of profiling at airports mirrors controversy over the use of racial or ethnic profiling more generally, because even if we abstract from the real and significant questions about the efficacy of profiling in preventing crime, people can bitterly disagree about whether or not it is justified.

How, then, should we think about the justification of airport profiling? Most people are not terrorists. In fact, most people do not engage in violent crime. So, any justification for replacing universal or random forms of intensive searches and questioning with something more targeted must start from the premise that almost all of the people singled out for such special measures are not terrorist threats and that their security is as essential to the justification of these searches as is the security of those who are not searched. This assumption must structure the way any targeted searches are carried out, so as to minimise the embarrassment, inconvenience and anxiety suffered by their overwhelmingly innocent subjects, and to avoid stigmatising groups of people – whether because of their religion, their nationality, skin-colour or, indeed, their age and sex.

The justification for more targeted security measures, then, must be their likelihood of increasing the security of all passengers and crew over either random searches or universal searches. The public cannot be expected to take the efficacy of such measures on trust, nor can we fairly ask some people to submit to forms of questioning to which others are generally exempt, unless we have some reason to suppose that this will improve our ability to deter, as well as to capture, would-be terrorists.

Legal cases over racial profiling in the US make clear the range and complexity of the information which must be publicly accessible in order to decide whether a given security policy is efficacious and whether, even if efficacious, it is consistent with people's freedom, equality and dignity. So, while we are unlikely to improve airline security by treating Cuba or Iran as a threat to those flying to the US simply because these countries challenge the security of America in other ways, it does not follow that all forms of profiling are likely to be inefficacious or unjust. Whether or not they are, however, depends on what they involve, on the alternatives to them and, critically, on the legal or regulatory environment in which they operate.

Body scanners, for instance, produce an image of our bodies without clothes which could, in principle, reveal our use of various medical, contraceptive and sanitary devices as well as whether we are trying to smuggle weapons or drugs in our clothing or bodies.

Using body scanners might increase our ability to deter, as well catch, would be terrorists. Still, their use raises real worries about the privacy and equality of those subject to them, because they reveal things about us that we might be embarrassed to reveal even to close friends and family, let alone to strangers, and which might affect our ability to obtain mortgages, insurance, or successfully to compete for jobs in the UK and abroad.

Will evidence from scanners be used to prosecute in the cases of other crimes – drug smuggling, say – which would not otherwise justify such screening? What penalties will there be for misuse of the information that they provide and what will count as misuse? These questions are urgent, whether the people selected for screening are selected by country of origin, destination of flight, religion, appearance, sex, age, behaviour or – as is likely – some combination of all of the above.

We all want to fly without fear of an untimely and horrible death. No matter our country of origin, or religion, we are willing to put up with long waits and onerous airport security to prevent the threat of such a death. We would, of course, prefer that other people submitted to the intrusive questioning and embarrassing searches from which we, ourselves, are exempt. But this is neither realistic nor fair. What we face, then, is the choice between three options: universal scrutiny; randomised ways of singling people out for special scrutiny; and profiling. It is likely that, for the foreseeable future, all three will have a place in the repertoire of airport security – along with efforts to decode behaviour and to determine its significance.

The challenge for those of us who care about liberty and equality, as well as security, is to determine what forms of each might be justified, under what conditions, and with what forms of public regulation, rather than to insist as a matter of faith – given the difficult empirical, interpretive and counterfactual questions involved – that there is some canonically favoured way to ensure the safety, freedom and dignity of aeroplane passengers and crew.