

PREFACE

I am proud to write a preface to this book, which is a polished and updated version of the doctoral thesis which the author completed in Cambridge under my supervision between 2006 and 2010.

As the title suggests, the book compares and contrasts the legal responses to terrorism in the United Kingdom, France and Italy: three countries with whose legal systems the author is familiar, and whose languages she is able to speak fluently. The introduction sets out the historical background, describing the rather different experiences of each country with terrorism in the years before 2001, and how their legal systems have reacted to the new wave of Islamic terrorism which has threatened all three countries (and many others) since the Twin Towers atrocity in September of that year. The rest of the book is arranged by themes, rather than historically. Chapter One deals with terrorism and the evolution, in each country, of the substantive criminal law designed to deal with it. In this chapter we discover how in each of the three jurisdictions 'terrorism' has been defined, and examine the range of terrorist offences that each has devised. In all three countries, learn that there has been a slide towards the extension of what might be called criminal liability in 'inchoate mode': an ever-widening range of new preliminary offences. Chapter Two explores the vexed question of telephone intercepts, and the admissibility of the fruits of telephone-tapping in evidence in criminal proceedings. Continental lawyers unfamiliar with the United Kingdom's legal system may be puzzled, initially, as to why this topic justifies a separate chapter. In France and Italy, and indeed everywhere else, the legal position is quite simple: if the intercept was carried out lawfully, the contents of the intercept will be admissible in evidence. In the United Kingdom, however, the position is the opposite: if the intercept was legally executed, the contents will be inadmissible; though paradoxically, they will sometimes be admissible in evidence if it was what the French would describe as *une écoute sauvage*. The reasons for this bizarre British rule are explained, and so too are its consequences. Of these, the most obvious is to reduce the evidence available in terrorist trials, so making it harder to secure criminal convictions; and this in turn is often said to be one of the main reasons why, in the United Kingdom,

successive governments have sought to deal with suspected terrorists by means of administrative detention rather than by prosecuting them in criminal courts. Chapter Three looks at investigative powers more broadly. All three jurisdictions, needless to say, have felt the need to give the police wider powers than usual to investigate suspected terrorism. And in all three countries a particularly vexed question, inevitably, has been the issue of preliminary detention: by the police, for questioning, and after legal metamorphosis has turned the suspect into a defendant, further detention whilst awaiting trial. The topic of Chapter Four, the last of the substantive chapters, is administrative measures. Of the countries in this study, only the United Kingdom has sought to introduce, for terrorist suspects whom the authorities cannot or do not wish to prosecute for criminal offences, various forms of administrative detention. In making such an obvious inroad on civil liberties, is the United Kingdom genuinely unique? – or do other countries, in reality, have their own battery of administrative measures which, though not including administrative detention, bear no less heavily on those whom the authorities suspect of being terrorists, or would-be terrorists? In this chapter the reader who is curious about this point will find the ‘alternative menu’ explained, and its contents weighed against administrative detention. In a concluding chapter the author draws the different threads together, making insightful suggestions as to how each of the legal systems in the study might learn, from the others, useful lessons as to how the thorny problem of terrorism might be faced without, in the process, doing excessive damage to the liberties which in a democracy are rightly valued.

This doctoral study on which this book is based was thought to be an excellent piece of work and the resulting book will be a significant – and very readable – addition to the literature.

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