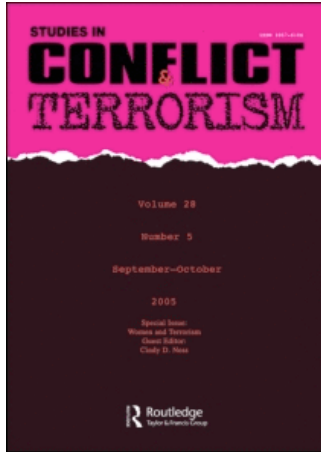


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Terrorism, Security, and the Threat of Counterterrorism

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Terrorism, Security, and the Threat of Counterterrorism

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In America, Britain and Australia the threat of terrorism has been used to justify radical new legislation that gives police and intelligence agencies unprecedented powers to detain and question people believed to have information connected to terrorism. In this paper I explore the nature of the threat of non-state terrorism—threat to national security and the well-being of citizens. I argue that terrorism does not pose a threat sufficient to justify the kinds of counterterrorism legislation currently being enacted. Furthermore many of the current counterterrorism practices pose a greater threat to individual physical security and well-being than non-state terrorism. We should fear counterterrorism more than we fear terrorism.

Introduction

Since the war against terrorism began, Australia, the United States, and the United Kingdom have introduced radical new legislation giving police and intelligence agencies unprecedented powers to detain and question people believed to have information connected to terrorism.¹ The United States has also been accused of using torture against terrorism suspects in Guantanamo Bay and elsewhere, and has been sending terrorism suspects to countries known for using torture.²

Responding to non-state terrorism³ by undermining standard legal protections and civil liberties is nothing new. In the past the threat of terrorism has been used to justify not only detentions, but also torture and extrajudicial killings. In current counterterrorism rhetoric terrorism is portrayed as a danger of such massive proportions that it threatens not only lives but “our way of life” and “civilisation,”⁴ a threat so great that as the British Home Secretary David Blunkett stated after the Madrid train bombings, “. . . the norms of prosecution and punishment no longer apply.”⁵

There are two interrelated assumptions in the claim that basic civil and human rights must be sacrificed in order to fight the threat of terrorism. First, there is the assumption that

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terrorism poses a unique and far graver threat than other threats and second, there is the assumption that undermining civil liberties and legal protections is the most effective way to combat terrorism. These assumptions are largely unchallenged and indeed rarely spelled out. As Ronald Dworkin observed in *"The Threat to Patriotism,"* there is a tendency to think that the gravity of terrorist acts is a reason in and of itself to erode the legal protections of suspected terrorists.⁶

This article examines both of these assumptions. Why is non-state terrorism considered to be a threat so different from other threats to individual and state security that it justifies normally unthinkable changes to basic democratic ideals and rights? It is argued herein that terrorism does not pose a threat sufficient to justify the kinds of counterterrorism legislation currently being enacted, particularly because the efficacy of this legislation is highly doubtful. Not only is the objective threat of terrorism small compared to many other threats, but representation of the terrorist threat by governments and the media promulgates anxiety and fear. The fear of terrorism is as much a product of counterterrorism rhetoric as it is of terrorism itself. Furthermore, many of the current counterterrorism practices pose a greater threat to individual physical security and well-being than non-state terrorism. Counterterrorism should be feared more than terrorism is feared.

The Threat of Terrorism

According to current counterterrorism rhetoric, non-state terrorism threatens many things: security, lives, values, freedom, democracy, and the existence of civilization itself, and poses a greater threat than the threats posed by war, invasion, accident, natural disasters, and criminal activity. Several government ministers have claimed that the magnitude of the terrorist threat is so great that it imposes a positive moral duty on governments to protect the individual's right to security even at the expense of many basic civil liberties. The German Interior Minister Otto Schily, for example, argued that the government had an obligation to "protect the "basic right to security" of all German Citizens."⁷ Similarly the Australian Attorney-General Phillip Ruddock said that "I believe that some protagonists fail to recognise a national government's obligation under Article 3 of the human rights convention—that is, that governments have an obligation to protect human life."⁸

The need to counter the threat of terrorism is claimed to both justify and require radical infringements of civil liberties such as the right to privacy, the right to due process, and the right not to be detained without just cause. Yet despite these strong claims there has been little clear explanation of how and why terrorism threatens lives, values, and freedom. Perhaps it is meant to be obvious, but the author does not find it so. How does terrorism threaten security? What kind of security does it threaten?

Defining Security

Despite the numerous references to the threat to security posed by non-state terrorism, a clear definition of security has rarely been offered in the arguments for radical counterterrorism measures. In "The Concept of Security" David Baldwin points out that any definition of security must meet several conditions. Security must be defined in reference to: "... the actor whose values are to be secured, the values concerned, the degree of security, the kinds of threats, the means for coping with such threats, the costs of doing so, and the relevant time period."⁹

Baldwin and other writers such as Christopher Michaelsen and Arnold Wolfers have noted that security can only be defined negatively—it is not a positive state but an absence of

threats to important values such as life, bodily integrity, health, and property. Furthermore security can only ever be a relative state. Individuals may be more or less secure in different areas of public and private life (secure from crime, not secure from terrorism) but absolute security is impossible. Similarly, the nation may be more or less secure from external threats to territorial integrity and state sovereignty.¹⁰

If the definition of security (individual or national) is accepted as what Baldwin calls "...a low probability of damage to acquired values,"¹¹ then clearly there are numerous ways in which national and individual security can be threatened. Natural disasters, for example, will threaten the security and integrity of a state to an even greater degree than war: the impact of Hurricane Katrina on America's security and integrity has been profound. Disease, accidents, and crime can also threaten individuals' physical security and the territorial integrity of a state, sometimes simultaneously. The HIV/AIDS epidemic threatens not only millions of individual lives but the very existence of some African nations—in Botswana, for example, 36.5% of people aged 15–49 are infected.¹²

Just as there are many different threats to individuals and to nations, so there are many different means for countering these threats. Responding to the threat of disease will require different methods than responding to the threat of a hurricane, and some threats might require more or less state involvement in preventative measures. Countering disease might require a combination of education about disease transmission as well as effective medical monitoring and vaccine programs. Countering a hurricane will require efficient and prompt emergency services, housing that can withstand high wind-speeds and effective clean-up operations.

When thinking about how to respond to the threat of terrorism, one must therefore assess the nature of the threat, the extent of the threat, what values it threatens, and the best means of averting or minimizing the threat.

The Nature and Extent of the Terrorist Threat

This article now assesses the threat to the lives of individuals. This is probably the most obvious aspect of the terrorist threat: terrorist acts kill and maim people. Yet despite the claims of politicians, statistically terrorism poses a far lesser threat to life than many other activities. Even after 9/11, there is a significantly greater likelihood of being killed by lightning strikes, bee stings, or do it yourself (DIY) accidents than being killed in a terrorist attack.¹³ The number of annual deaths from sport utility vehicles (SUVs) is reported to be greater than the total number of deaths caused by all terrorist acts combined.¹⁴ As Richard Jackson notes in *Writing the War on Terror: Language, Politics and Counter-terrorism*:

...the estimated 1,000–7,000 yearly deaths from terrorism pales into insignificance next to the 40,000 people who die every *day* from hunger, the 500,000 people who are killed every year by light weapons and the millions who die annually from diseases like influenza (3.9 million annual deaths), HIV-AIDS (2.9 million annual deaths), diarrhoeal (2.1 million annual deaths) and tuberculosis (1.7 million annual deaths).¹⁵

Furthermore, the objective likelihood of a terrorist attack in some of the countries currently enacting radical counterterrorism measures is very small. For example, in "Antiterrorism Legislation in Australia: A Proportionate Response to the Terrorist Threat?" Christopher

Michaelsen assesses the current threats to Australia and argues that because Australia is a low-profile target with little influence or presence in the Arab world, the risk of an attack from Al Qaeda is relatively low, as is the risk from other terrorism groups such as Jemaah Islamiyah.¹⁶ Yet even though there has not been a terrorist attack on Australian soils, Australia has introduced some of the most radical counterterrorism measures of all. It is the only country that permits detention of people merely suspected of having information about possible terrorist activities, but who are not themselves suspected of terrorist involvement.¹⁷

Despite the relatively low statistical threat to life posed by non-state terrorism, government officials have portrayed the threat as both immediate and of great magnitude. So there are statements from Phillip Ruddock and the Australian Prime Minister John Howard claiming that “there is “high probability” of a terrorist attack occurring sooner rather than later.”¹⁸ Similarly, in the United States officials have claimed that “Terrorism is a clear and present danger to Americans today” and “The threat of international terrorism knows no boundaries.”¹⁹ This view is shared by the general population. Opinion polls in the United States and in Australia show that the majority of the population believe that the threat of terrorism is both an imminent and far greater threat than other threats.²⁰

But perhaps the discrepancy between the actual statistical threat of terrorism and the claims of politicians is not based just on what terrorists might do now, but also on what they might do in the future. A supporter of radical counterterrorism measures might accept that the statistical threat of being killed in a terrorist attack is, at present, less than many other threats but point out that the *future* threat of what might be called super-terrorism is significant enough to justify the suspension of civil liberties and the massive spending on defense and other counterterrorism organizations. Because it is possible that a single act of terrorism could wipe out hundreds of thousands of people instantly, the mere existence of that possibility is sufficient to make the threat of terrorism far more significant than the threat posed by crime, disease and poverty.

Certainly the rhetoric of counterterrorism is full of dire warnings about terrorists’ intentions and plans, and is full of claims about terrorists’ desire to use weapons of mass destruction and to kill even more people in acts of super-terrorism. Colin Powell stated that “Even as I speak, terrorists are planning appalling crimes and trying to get their hands on weapons of mass destruction.”²¹ How seriously should the possibility of acts of super-terrorism be taken?

It is difficult to argue against hypothetical possibilities. Of course it is *possible* that a single act of terrorism could instantly kill hundreds of thousands of people—even millions. But the question is whether the existence of a *possible* threat—the likelihood of which is unclear—justifies the *actual* infringement of civil liberties and the lessening of constraints against torture and other human rights violations. Although assessing the likelihood of a possible threat is extremely difficult, there is no clear evidence that terrorists are seeking to kill as many people as possible. Indeed, several studies on terrorism argue that terrorists do not seek ever higher casualty rates, but instead aim to inspire fear, terror, and to coerce governments through threats of attacks and by attacks on targets that are symbolic of a nation’s power, such as the World Trade Center.²² Similar studies have argued that terrorists are unlikely to use weapons of mass destruction because of the unreliability and instability of such weapons and the likelihood that they would be counterproductive to the terrorists’ aims.²³ Indeed, in terms of future threats, global warming, pollution, and the spread of disease arguably pose a more serious and more likely threat to human survival than terrorism. Pollution by itself can disrupt the effective running of a state—as occurred

in Malaysia in August when a state of emergency was declared after a toxic fog closed schools and the airport.²⁴ The impact of Hurricane Katrina on the effective functioning of the United States is massive—over 1 million people have been left homeless, the damage to oil refineries has affected the oil market worldwide, and it will be months before New Orleans is habitable.²⁵ Studies on Global Warming have claimed that the likelihood of more massive storms is “overwhelming.”²⁶

This is not to deny that terrorism poses a threat to the lives of individuals. Terrorism currently does threaten lives and it is indeed possible that terrorists might be planning even more destructive attacks than have hitherto occurred. But to realistically assess the threat to security posed by terrorism is not enough to show that a threat exists and may continue to exist. Justifying radical counterterrorism measures and massive counterterrorism budgets requires more than postulating possibilities; it requires a clear assessment of the likelihood of the possibility occurring, particularly compared to the likelihood of other future threats. Merely claiming that terrorist *could* perform an act of super-terrorism because the means for such an act (e.g., weapons and biological pathogens) are available is a truism, not a threat assessment. In fact it is states, not non-state terrorists, that have the easiest access to weapons of mass destruction and deadly biological agents. In the United States, for example, the Center for Disease Control has estimated that there are “about 800 labs nationwide who work with so-called select agents, the 49 toxins, on the government’s bioterrorism list” and Federal officials have admitted that “policing these labs won’t be easy.”²⁷ History has demonstrated that states cannot be relied on not to use such weapons against their perceived enemies (as occurred in World War II with the bombing of Hiroshima) and the deaths caused by state violence far outnumber those caused by non-state terrorism.²⁸ It is untenable to conclude that the *possibility* of non-state terrorists using weapons of mass destruction or biological agents means that they are *in fact* going to use such weapons. It is equally possible that a state will use such weapons, or that scientists working in the 800 labs mentioned earlier will cause mass casualties through careless handling of biological agents. Given that there have already been cases of what is known as “vial in pocket” syndrome—where scientists carry vials of deadly viruses in their jacket pockets while travelling on international and domestic flights—the possibility of a catastrophic accident should not be ignored.²⁹

In summary the extent of the present and future threat posed by non-state terrorism is far less than is claimed in counterterrorism rhetoric. The evidence that terrorists *are* (as opposed to *might be*) planning acts of super-terrorism is slight and the evidence that terrorism poses a grave threat to life now and in the future is misleading—it poses a far lesser danger than other threats, both natural and manmade.

If the claim that terrorism threatens individual lives to such an extent that it justifies radical counterterrorism measures is based on misleading claims about the extent of the terrorist threat, the claim about the threat posed to national security is just as misleading. Historically, non-state terrorist activity has not significantly undermined nor damaged the national cohesiveness or integrity of liberal democracies. Israel, Germany, Italy, the United Kingdom, and many other countries have lived with terrorist activity for many years without such activity seriously threatening their very existence, or even their “way of life.” As noted earlier, greater threats to the existence and survival of states come from other human activities and natural disasters.

Given the small statistical threat of terrorist attacks, one must wonder why governments have claimed that the threat of terrorism is sufficient to warrant radical counterterrorism measures, whereas the far more serious threats from SUVs and crime have not warranted similar responses. As noted earlier, several government officials have claimed that states

have a positive moral duty to protect the lives of citizens even when doing so means undermining certain of their civil and legal rights.³⁰ If this is the case—if the “right to security” is so important that in times of threat it trumps other rights—then states clearly have a similar moral duty to fight the threat of accidents, crime, and other events even when doing requires curtailing civil liberties. The means taken to minimize these threats might be different from the means taken to minimize the terrorist threat, but given that the threat posed by terrorism is claimed to justify arbitrary detention and even torture, the many other activities that pose a far greater risk should require equally serious measures. Certainly the enormous death toll caused by SUVs seems sufficient to justify radical infringements of civil liberties. Given that the Australian government is considering legislation that would make justifying or glorifying terrorism illegal, legislation banning advertising, films, and other media that glamorizes SUVs should also be considered.³¹

Yet such an idea seems preposterous and completely unacceptable. But by claiming that citizens have a “right to security” (i.e., freedom from threats to life), that trumps other rights in times of threat, counterterrorism rhetoric opens the way for just such extreme conclusions.

Given this *reductio* of the claims of counterterrorism rhetoric, and given that the nature and magnitude of the terrorist threat is far less than is reported in counterterrorism rhetoric, there are two questions to be asked. First, is the threat to life posed by terrorism the only relevant threat to consider when assessing arguments for radical counterterrorism measures, or does terrorism threaten other values in ways that accidents, disease, and pollution do not? Second, given that terrorism poses a lesser threat than accidents, murders, and other events, what purpose is served by exaggerating the threat of terrorism?

Terrorism as a Threat to Psychological Well Being

Although the threat of terrorism to individual lives is less than many other threats, terrorism does not only threaten lives; it threatens psychological well being. Terrorism causes deep anxiety and fear in the target population. Indeed, causing fear and anxiety is often part of the very definition of terrorism.³² Furthermore, the fear induced by terrorist attacks is different from the fear and anxiety felt about other threats to lives for several reasons. First, terrorist attacks are often highly visible and shocking. Unlike car accidents, for instance, terrorist attacks can kill thousands of people instantly. The graphic nature of terrorist attacks and their apparent randomness (from the victims’ point of view) greatly contributes to the terror they instill. According to psychological research on terror management theory events such as terrorist attacks forcefully remind us of our mortality. Because of this, we desire reassurance and a sense of security that we do not require for less visible threats that pose a greater objective threat to our lives and well being.³³ Terrorist attacks make human fragility and vulnerability highly salient. Second, new threats are feared far more than old. For many people, the fear of contracting the SARS virus was greater than the fear of contracting tuberculosis, a disease more prevalent and far more fatal than SARS.³⁴ For Americans and Australians, therefore, the threat of terrorism is both relatively new and highly visible. Citizens of countries like Israel who have lived with terrorist violence for years probably do not feel nearly the same level of anxiety or fear as citizens of America.

Third, terrorism is a malevolent threat—a threat directed against one by people who desire to inflict hurt.³⁵ In “Trust and Terror” Karen Jones notes that emotional reactions to harm caused by someone’s deliberate actions are very different to reactions to harm that is the result of accidents, natural disasters, or unintentional human actions.³⁶ As she says: “We

are more likely to be psychologically devastated by harms caused by the active ill will on the part of other agents than by other kinds of harms. . . . There is also suggestive empirical evidence that post-traumatic stress is more likely to follow from sudden man-made violence than natural disaster.”³⁷

She argues that random acts of violence can radically disturb what she calls “basal security”—the unarticulated affective sense of safety and trust through which one (sometimes unconsciously) judges and assesses risks. An individual’s level of basal security: “shapes the agent’s perception of those reasons that she has that concern risk and vulnerability where such risk and vulnerability arise from the actions of others.”³⁸ Basal security is therefore a holistic state that can determine how salient different risks appear, regardless of the statistical likelihood of a risked event occurring.³⁹

By their extreme violence and seeming randomness, terrorist attacks can radically undermine victims’ basal security. Survivors may feel that their trust and sense of security in the world is profoundly shaken—they are forced face to face with their vulnerability to attack and their helplessness at preventing such attacks. Like victims of rape, victims of terrorist attacks may feel that they “can be attacked at any time, in any place.”⁴⁰ Terrorism instantly forces one to face the fear of death and the fear of being maliciously targeted in ways beyond one’s control and even understanding. Precautions can be taken against the threats posed by disease and accidents but one can do very little to counter the possibility of being a victim of terrorism. One does not know if, when, and why they will become victims.

Another reason why malevolent threats evoke such strong reactions in victims is that unlike accidents, disease and natural disasters, malevolent actions send a message about intrinsic moral worth. As Jeffrie Murphy explains in *Forgiveness and Mercy*:

One reason we so deeply resent moral injuries done to us is not simply because they hurt us in some tangible or sensible way; it is because such injuries are also *messages*—symbolic communications. They are ways a wrongdoer has of saying to us, “I count but you do not,” “I can use you for my purposes,” or “I am here up high and you are there down below.” Intentional wrongdoing *insults* us and attempts (sometimes successfully) to degrade us—and thus it involves a kind of injury that is not merely tangible and sensible. It is moral injury, and we care about such injuries.⁴¹

Several authors have argued that part of the reason why terrorism is morally abhorrent is because the direct victims of the attack are, in some ways, not the intended audience of the attack. In “What is Terrorism?” Igor Primoratz argues that terrorist attacks have two targets. The first targets are the immediate victims of the attacks whose deaths are intended to intimidate a second group of people into a course of action they would not otherwise take.⁴² The victims of the attacks are used as a means of coercion—a clear violation of the Kantian injunction against using others merely as a means to an end.⁴³ Terrorist acts tell the victims in the most brutal way that, in the eyes of the terrorist, they are disposable.

The threat of terrorism is therefore more than a threat to life; it is a threat to the belief that we are morally valuable. Despite the greater objective risks posed by other activities, we *feel* more threatened by terrorism because it threatens not only lives but our trust that others will not treat us as mere objects. Because of the malevolent intention behind terrorist acts and the fact that anyone could be a victim, the perceived threat to the sense of security posed by the possibility of terrorist action has little to do with the actual risk to lives and everything to do with the threat to a sense of self-worth and trust in others.⁴⁴

Furthermore, terrorism disrupts one's sense of being safe within one's own community; the sense of trust in the normal everyday workings of life. Of course in every community there are threats, but many of these are recognized or at least familiar threats that one "works around" as one goes about everyday activities. Such threats are part of the normalcy of one's life.⁴⁵ But because terrorism deliberately aims to disrupt normal life in unpredictable ways, the threat of terrorism even in countries with ongoing terrorist activity mutates the sense of community trust and forces people to adopt a radically different and distorted conception of community well-being.

Averting the Threat of Terrorism

Referring back to the definition of security offered in the "Defining Security" section, it is clear that terrorism poses a statistically small threat to individuals' lives. Yet the impact of terrorism extends far beyond the statistical threat to life. The terrorist threat is a malevolent and seemingly random threat, and so it threatens citizens' psychological sense of security to a far greater degree than other threats. Perhaps then, when assessing the threat of terrorism and considering how one should respond to it the focus should not be only on the objective threat to life but also on the threat to basal security. The threat of terrorism causes ongoing fear and insecurity and disrupts normal senses of trust and well being in a community and for that reason as well as because of the threat to life extreme counterterrorism measures are justified.

It is true that the threat of malevolent violence creates a level of fear and anxiety that is greater and more disturbing than the fear generated by other statistically more likely threats to lives and well being. The heightened anxiety and insecurity after a terrorist attack are both understandable and need to be respected. However, there is a serious problem with the claim that one is justified in undermining civil liberties to prevent terrorism because of the threat that it poses and the fear and anxiety it induces.

As Jeremy Waldron points out, "Fear is only half a reason for modifying civil liberties; the other and indispensable half is a well-formed belief that the modifications will actually make a difference to the prospect that we fear."⁴⁶ If radical counterterrorism measures are to be accepted, there must be some evidence that they are actually effective in staying the threat of terrorism. But not only has there been little or no assessment of the effectiveness of the new practices, there is some evidence that they are in fact counterproductive. Consider the reduction of due process requirements like the requirement that there be sufficient evidence of a crime before surveillance may be used or suspects may be detained. Waldron argues that:

A reduction of due process may make it more likely that terrorist suspects will be convicted. And that, people will say, is surely a good thing. Is it? What reason is there to suppose that our security is enhanced by making the conviction and punishment of suspects more likely? We know the conviction and punishment of an Al-Qaeda fanatic, for example, will have no general deterrent effect; if anything, it will have the opposite effect—making it more likely rather than less that the country punishing the suspect is subject to terrorist attack.⁴⁷

In "The 'War against Terrorism': A Public Relations Challenge for the Pentagon" P. Eric Louw argues that America's response to the 9/11 attacks was exactly what Al Qaeda wanted:

Al-Qaeda's aims were to intensify anti-American (and anti-Western) feeling in the Muslim world, weaken the position of pro-western ruling elites in the Muslim world, and mobilise a (global) fundamentalist-Muslim constituency for itself . . . the 9/11 attacks . . . provoked intense American (and global-Anglo) anger, which generated the polarisation and resort to US military action that al-Qaeda wanted. . . . A key al-Qaeda objective would have been to provoke US retaliation so that the USA was seen as 'brutally repressive.'⁴⁸

Torturing terrorism suspects, allowing indefinite detention and reducing the standard of proof required for arresting suspects and for conducting wire-taps, searches and other intelligence-gathering procedures might prevent some individuals from committing terrorist acts, but it is unlikely to affect the overall threat from terrorism. Indeed, studies on the effectiveness of antiterrorism legislation in Europe during the 1970s and 1980s suggest that it was very unlikely that such legislation played a significant role in the decline of terrorism in Europe.⁴⁹

Furthermore, there is evidence that the current counterterrorism procedures will only increase the alienation of the Muslim community. Alienating the community linked to the modern terrorist threat is not going to minimize the likelihood of terrorism from radical members of that community. The dehumanization and ostracizing of the Muslim community has already occurred in America, Britain, and Australia. In all these countries it is primarily Muslims who are arrested, investigated, and detained on suspicion of terrorism and anti-Muslim sentiment has resulted in hate attacks against Muslim citizens. A European Union report found that anti-Muslim prejudice had increased dramatically across the continent, inflamed partly by the anti-Muslim attitude displayed in British media reports.⁵⁰ This rise in anti-Muslim hatred will not reduce the threat of terrorism.

So even if one accepts the claim that stopping terrorism requires radical measures, far more needs to be said about what measures will actually reduce the threat. It is far from clear that current counterterrorism measures will reduce the threat even if they do catch some individual terrorists, and there is some likelihood that they might in fact increase the threat.⁵¹

There is a further question that has been overlooked in arguments about the threat of terrorism and the need for radical counterterrorism measures. When assessing how to respond to the terrorist threat, one must consider not only how terrorism affects the lives and well being of citizens, but also how the proposed counterterrorism measures will affect these things. Even if terrorism posed a far greater threat than it in fact does, this threat must be balanced against the threat to citizens' lives and basal security posed by counterterrorism measures. What are the consequences of allowing radical counterterrorism measures to go ahead? Is the fear of terrorism *just* a natural response to terrorist threats?

The Threat of Counterterrorism

Current counterterrorism measures pose a threat in several different ways. When assessing whether these measures are justified it is worth bearing in mind how old these "new" justifications are. There is a *prima facie* reason to be suspicious about appeals to the threat of terrorism as a means of justifying radical changes to civil liberties and legal protections. Historically the threat of terrorism has been used numerous times to justify undermining legal rights such as the right to privacy and the right to legal counsel as well as justifying the use of torture, secret trials, and even executions. Such was the tactic of the military

dictatorships in South America, who all justified the extensive use of torture and killing by reference to the threat of internal and external terrorism, and justified them by arguments very similar to those made by current governments. As the Brazilian Colonel Brilhante Ustra explained:

Our accusers complain about our interrogations. They allege that innocent prisoners were being held for hours under tension, without sleep while they are interrogated. . . . Thus, it is necessary to explain that one does not combat terrorism by using ordinary laws for an ordinary citizen. The terrorists were not ordinary citizens.⁵²

The claim that terrorists are not “ordinary citizens” and that fighting terrorism requires new laws is similar to claims made by U.S. officials. In a memo to George Bush, the White House legal counsel Alberto Gonzales stated that:

. . . the war against terrorism is a new kind of war . . . the nature of the new war places a high premium on other factors, such as the ability to quickly obtain information from captured terrorists and their sponsors in order to avoid further atrocities against American civilians. . . . In my judgement, this new paradigm renders obsolete Geneva’s [the Geneva Convention] strict limitations on questioning of enemy prisoners and renders quaint some of its provisions.⁵³

Similarly, the former head of the U.S. Counterterrorism Center stated that: “There was a before 9/11, and there was an after 9/11. . . . After 9/11 the gloves come off.”⁵⁴

The historical precedents set by states’ counterterrorism activities make grim reading and one should therefore be careful about accepting the claim that *this* time the terrorist threat *really* is a different kind of threat requiring different kinds of responses. Given that counterterrorism is already being used to justify imprisoning and torturing terrorism suspects there is good reason to be suspicious.

But even accepting that perhaps this time the threat is different and perhaps more dangerous—although, as already argued, this is highly doubtful—there are at least three further reasons to be concerned about current counterterrorism measures, concerns not only about the threat to the lives of citizens but also the threat to basal security. These concerns will be examined one by one.

First, the changes made in legislation and in practice in the name of counterterrorism are both wide-ranging and usually indefinite. Legislative changes made to fight terrorism are rarely, if ever, revoked. “Temporary” anti-terrorism laws passed in Northern Ireland (against the IRA) and Germany (against the Red Army Faction) during the 1970s have never been repealed⁵⁵ and given that there is no foreseeable end to the “War against Terrorism” there is little reason to think that the current legislative changes will be revoked.⁵⁶ This provides another strong reason to be concerned about radical counterterrorism measures. These measures are disturbingly reminiscent of the counterterrorism measures adopted by now universally condemned military dictatorships and totalitarian regimes and once in place, they are very unlikely to be revoked.

Second, counterterrorism measures almost inevitably result in innocent civilians being detained and even tortured. This “collateral damage” of the War against Terrorism arises because of the nature of new counterterrorism legislation and the way counterterrorism intelligence-gathering operates. Most counterterrorism legislation focuses on suspects’ actual or likely intentions (rather than their acts) and at the same time lessens the burden of

proof required to arrest and detain people. This combination means that the likelihood that innocent people will be arrested, detained, and tortured is very high. The use of military tribunals raises a similar problem. Ronald Dworkin points out that:

... there is an evident danger that some innocent people who would have been acquitted under the stricter rules of an ordinary American criminal trial will in fact be convicted and punished, perhaps with death, in military trials. . . . Of any proposed set of procedures, we must ask not whether the guilty deserve more protection than those procedures afford, but whether the innocent do.⁵⁷

Indeed, that innocent people will be detained and even tortured is not merely a hypothetical possibility; it is already occurring and given the evidence from past uses of radical counterterrorism measures, can reliably be expected to continue. Historically, the pool of people considered legitimate suspects by counterterrorism organizations has widened to include not only people directly suspected of terrorist activity but their friends, acquaintances, and family members. In the South American military dictatorships, for example, the use of torture was limited at first to accused terrorists, but gradually spread to include associates and bystanders.⁵⁸ In “A Consequentialist Argument against Torture Interrogation of Terrorists” Jean Maria Arrigo notes that historically, “Dagnet interrogation is the norm”⁵⁹ in counterterrorism operations. Even some philosophers have argued that the friends and family of terrorist suspects, although not directly guilty of terrorism, could be legitimate targets of investigation and even ill-treatment because they have, in Jan Narveson’s words, “harboured and shielded him [the terrorist], not only tolerated and exonerated but perhaps also actively supported his nefarious activities.”⁶⁰ This expansion of the pool of suspects has already occurred in recent legislation—in Australia, the new laws permit ASIO to detain people who are not suspected of any criminal activity but of merely possessing information that might be relevant to counterterrorism investigations.⁶¹

Furthermore, it is not merely a few people who might accidentally be tortured or imprisoned but quite possibly thousands. Anti-terrorist strategies for identifying terrorism suspects often include stereotyping or sampling criteria (i.e., being of Muslim appearance and/or belonging to Islamic organizations), which can lead to large numbers of innocent people being arrested and investigated. In Britain, for example, the overwhelming majority of people arrested for suspected involvement with terrorism were Muslim, yet the majority of those actually convicted were non-Muslim.⁶² Such wrongful arrests are a likely consequence of counterterrorism procedures that focus on people’s possible intentions and their group affiliations. As Russell Hardin argues in “Civil Liberties in the Era of Mass Terrorism” even if the criteria for identifying suspects are very selective, even 95% accurate, this translates to huge numbers of innocent people being wrongfully arrested:

Even if one in 100,000 residents are terrorists (an implausible number of about 2,000 total),⁶³ our criteria will turn up 5,000 non-terrorists for every terrorist we catch. Moderately zealous operatives could make life miserable for tens of thousands of innocent people. Anyone distressed by the rate at which DNA evidence has retrospectively freed men who were scheduled to die must react with dread to the prospect of police agents going after tens of thousands of suspected terrorists.⁶⁴

The total numbers of victims of current and past counterterrorism measures who are innocent of terrorism vastly outnumber the total victims of terrorist acts. The victims of

the Argentinean military dictatorship's "dirty war" against domestic terrorism numbered over 30,000.⁶⁵ In the United States, there are hundreds of people who are being detained as security risks—some in solitary confinement—despite the fact that none of them have been charged with or convicted of any crimes.⁶⁶ In Guantanamo Bay the nearly 600 prisoners include 80-year-old prisoners suffering from dementia.⁶⁷ The United States has never explained on a case-by-case basis why most of the prisoners were arrested and it has not announced any major intelligence discoveries arising from these prisoners' detention.⁶⁸

Given that, as Igor Primoratz argued in "State Terrorism," states have the resources and manpower to inflict far more damage on their own and other populations than any terrorist group could ever achieve,⁶⁹ the threat of state counterterrorism to individuals and even to other states should not be underestimated. By using the resources of police forces, military forces, and intelligence forces at both a national and international level, states' counterterrorism activities have greater reach and greater destructive power than most terrorist organizations. The impact of counterterrorism measures on domestic and international communities can be both extremely serious and of great magnitude.

Third, the counterterrorism legislation currently being enacted, combined with the likely use of indefinite detention, torture and military trials not only threaten the lives and physical well being of many innocent people, but also basic democratic principles, such as the right to a fair trial and the right to privacy. This occurs in two ways. First, this legislation threatens security from the state itself—security from being investigated, detained, controlled, and placed under surveillance without one's knowledge. In "Security and Liberty: The Image of Balance," Jeremy Waldron argues that legally enshrined civil liberties were originally intended to be protections against the state because of the well-founded suspicion that "power given to the state is seldom ever used only for the purposes for which it is given, but is always and endemically liable to abuse."⁷⁰ As he notes, the mere fact that a terrorist threat exists does not reduce the threat that state power poses to individuals and communities.⁷¹ Second, counterterrorism measures, as Christopher Michaelsen argues in "Balancing Liberty and Security? A Critique of Counterterrorism Rhetoric," can lead to the destabilization of states and to long-term problems with internal security: "Rather than leading to a decline of violence and civil unrest, however, the measures taken often undermined safety as personal injustices increased and channels for expressing discontent and altering the political, legal and social structures were closed."⁷²

Counterterrorism legislation and practices therefore threaten not only actual terrorism suspects (who might be considered legitimate targets of these practices) and innocent people wrongly suspected of terrorism but the stability and democratic nature of states. If past practices are anything to go by, these counterterrorism measures threaten the lives and security of individuals and states to a greater degree than the threat posed by terrorism.

There is a further aspect to the threat of counterterrorism. Current counterterrorism measures pose a very real threat to the lives and well-being of innocent citizens, but it does more than this. It also magnifies an aspect of the threat of terrorism—the threat to basal security. The fear and anxiety induced in response to terrorism is not only the natural human reaction to new and unpredictable threats. It is deliberately fostered and enhanced by counterterrorism rhetoric.

Counterterrorism and the Fear of Terrorism

How a population perceives the threat of terrorism is largely a product of how the media and the state choose to represent the threat. Constant media coverage of terrorist attacks

combined with public statements like those quoted earlier from Phillip Ruddock, John Howard, George Bush, and Colin Powell all create strong fear and anxiety in the public. Claims that terrorism is an ongoing, omnipresent threat that might strike at any time are not true reports of genuine risk assessments but are designed to instil anxiety and fear in the general population, leading to a generally held belief that a terrorist attack is inevitable. Given the statements made by public officials characterizing the threat of terrorism as malevolent and all-pervasive it is not surprising that a recent poll found that 68 percent of Australians believe that terrorists will attack Australia in the near future.⁷³ If the fear of a random malevolent attack has a profound effect on individuals' basal security, then reminders of such attacks by media and public statements by politicians reiterating that attacks are likely to occur will undermine such security well beyond the initial impact of the terrorist attack itself.

As with other features of counterterrorism this deliberate creation of fear and anxiety in response to terrorism is nothing new. In 1987 a survey of Americans revealed that 68–80 percent believed that terrorism was a “serious” or “extreme” threat, even though the actual threat at that time was miniscule and there had been no terrorist attacks by foreigners on American soil.⁷⁴

If terrorism is condemned partly because it attempts to spread fear and anxiety throughout a target population, then this gives reason to condemn counterterrorism rhetoric that does exactly the same thing. If states have a duty to protect their citizens from the threat of terrorism, then the correct response to terrorism is not to issue “blanket alerts” or statements that the terrorist threat “knows no boundaries” but to explain the nature of the threat and the likelihood of attack; to aid the population in gaining a realistic understanding of the threat and to gain back a sense of basal security.

But what is the purpose of such deliberate exaggeration of the terrorist threat and the instilling of fear? One reason is that exaggerating the threat of terrorism—scaring the public—is a means of achieving public acquiescence for significant and far-reaching changes to legislation and well as for the massive financial and military commitments “required” to fight terrorism at home and overseas.⁷⁵ Fighting the war against terrorism has been used to justify sending troops to Afghanistan and Iraq, for example. Linking the war in Iraq to the war against terrorism has become a popular move among American officials, as a means of justifying the continuing involvement of American troops and as a means of allaying public doubt occasioned by the continually rising casualty figures.⁷⁶ The threat of terrorism has been used to justify massive defence spending and the creation of new departments such as the United States's Department of Homeland Security.⁷⁷ It has also been used to justify radically extending the powers of intelligence, military and police forces. For example, both American and Australia's new legislation gives unprecedented power to intelligence agencies like the CIA and ASIO. Counterterrorism rhetoric that exacerbates the fear of terrorism—that paints terrorism as an ever-increasing threat—is used to both generate public acceptance of increased state control and to stifle debate and criticism of such control. A population that is scared and insecure is more likely to support legislation that appears to protect them from what they have been told to fear.

Furthermore there is a direct correlation between reminders of terrorism and support for conservative governments. A study of the connection between reminders of the 11 September terrorist attacks and support for George Bush found a strong positive correlation. The authors found that “President Bush's popularity is increased when thoughts of death or terrorism are particularly salient.”⁷⁸

In summary, current counterterrorism measures threaten individuals' lives, physical safety, and basal security as well as seriously endangering basic democratic principles and

states' internal stability. This threat exceeds that of terrorism itself. The threat of terrorism to lives is small and, as this article has shown, the threat to basal security is amplified and reinforced by counterterrorism rhetoric. It cannot therefore be used to justify radical counterterrorism measures when it is partly a product of those same measures.

Conclusion

Counterterrorism rhetoric claims that radical measures are needed to protect the individual and the nation from the threat of terrorism. Yet, as this article has argued, the threat posed by terrorism to individuals and to states is far less than the threat posed by many other events and is not sufficient to justify the radical curtailment of civil liberties. Furthermore, the threat to basal security is promulgated not only by terrorist acts but by the state through public statements and constant reminders of the dangers posed by terrorists. If the state is genuinely committed to protecting citizens from the threat of terrorism, then the state has a clear duty to demonstrate realistically the extent of the threat and how citizens can guard against it. To spread the fear of terrorism through misleading and exaggerated rhetoric is not only irresponsible but morally criticisable. If the fear that terrorism causes is one of the reasons why terrorist acts are considered morally repugnant, then to exaggerate and reinforce that fear is equally repugnant.

Furthermore, the radical counterterrorism measures adopted in many Western countries pose a greater threat to lives, physical well being, and basal security than terrorism itself. Given that the efficacy of the new counterterrorism measures is far from clear, the threat posed to thousands of innocent civilians and to the very basis of democratic states from increased state power and the use of torture, indefinite detention, and other counterterrorism practices is more dangerous than the threat posed by terrorism. Terrorism must be fought, just as all crimes must and terrorists must be brought to justice just like other criminals, but one must not let counterterrorism rhetoric compel acquiescence to measures that pose a greater threat to lives and one's way of life than terrorism itself.

Notes

1. This new legislation gives ASIO the power to detain people who are not suspected of any crime but who are merely suspecting of possessing information. Such people may be detained for up to 7 days, and during this time may be questioned without legal counsel being present. Legal counsels, when involved, are not permitted to discuss the charges with any external parties and the detainees themselves are forbidden to discuss their experience for at least two years after detention. Decisions to detain people are not subject to any kind of judicial review. For a detailed discussion of the new legislation see Christopher Michaelsen, "Antiterrorism Legislation in Australia: A Proportionate Response to the Terrorist Threat?" *Studies in Conflict and Terrorism* 28 (4), pp. 321–339. The United States, Canada, and Great Britain have introduced similar legislation but Australia is the only country to allow detention of people who are not suspected of any crime (Michaelsen, p. 326).

2. This is called extraordinary rendition. For a full account of the evidence of the use of torture by the United States, see Seymour M. Hersh, *Chain of Command: The Road from 9/11 to Abu Ghraib* (Australia: Allen Lane, 2004).

3. For the purposes of this article the author uses an uncontroversial definition of terrorism: terrorist acts are threats of violence or acts of violence directed at innocent people with the intention of coercing or intimidating a target group for ideological reasons. (This is similar to Igor Primoratz's definition in "State Terrorism," in Tony Coady and Michael O'Keefe, eds., *Terrorism and Justice* (Melbourne: Melbourne University Press, 2002)). For a full definition, see Ninian Stephen, "Toward a Definition of Terrorism" and C. A. J. Coady, "Terrorism, Just War, and Supreme Emergency," in

Tony Coady and Michael O'Keefe, eds., *Terrorism and Justice* (Melbourne: Melbourne University Press, 2002). This article focuses only on the threat of non-state terrorism, as that is the threat of non-state terrorism that is considered serious enough to warrant radical state counterterrorism measures.

4. These phrases were used by George W. Bush and Colin Powell, respectively, in public statements about the war of terrorism. (Quoted in Richard Jackson, *Writing the War on Terror: Language, Politics and Counter-terrorism* (Manchester: Manchester University Press, 2005), p. 99.).

5. Jackson, p. 111.

6. Ronald Dworkin, "The Threat to Patriotism," *New York Review of Books*, 49, 28 February 2002. Accessed 4 July 2005 at (<http://www.nybooks.com/articles/15145>).

7. Christopher Michaelsen, "Balancing Liberty and Security? A Critique of Counterterrorism Rhetoric," Draft 1 May 2005, p. 12.

8. David Nason and Patrick Walters, "Security our UN Right: Howard," *News.com.au*. Accessed 2 August 2005 at (<http://www.news.com.au/story/0,10117,16047920-2,00.html>).

9. David A Baldwin, "The Concept of Security," *Review of International Studies* 23(1), pp. 5–26, 13–17, 17.

10. Baldwin, p. 14.

11. Baldwin, p. 13

12. "HIV and AIDS in Botswana," *Avert. Org*. Accessed 1 August 2005 at (<http://www.avert.org/aidsbotswana.htm>).

13. Jackson, p. 92.

14. Russell Hardin, "Civil Liberties in the Era of Mass Terrorism," *The Journal of Ethics* 8 (1), pp. 77–95, 79.

15. Jackson, pp. 92–93.

16. Michaelsen, "Antiterrorism Legislation in Australia," 331–334.

17. *Ibid*, p. 326.

18. *Ibid*, p. 330.

19. Quotes from John Ashcroft and Cofer Black, respectively. Quoted in Jackson, p. 100.

20. Jackson, p. 92.

21. Quoted in Jackson, p. 104.

22. P. Eric Louw, "The 'War Against Terrorism': A Public Relations Challenge for the Pentagon." *Gazette: The International Journal for Communication Studies*, 65, pp. 211–230, 211–212, 213.

23. See B. Jenkins, "Will Terrorists go Nuclear? A Reappraisal" in H. Kushner, ed., *The Future of Terrorism: Violence in the New Millenium* (London: Sage, 1998) and C. Towshend, *Terrorism: A Very Short Introduction* (Oxford: Oxford University Press, 2002).

24. Connie Levett, "Schools, Airport Close as Malaysia Chokes," *The Age*, 12 August 2005.

25. See "Katrina Damage to Hit Oil Prices," *The Age*, 4 September 2005; "New Orleans recovery could take years," *The Age*, 5 September 2005.

26. Rob Edwards, "Katrina Fulfils Storm Warning," *The Age*, 6 September 2005.

27. Russell Gold, "With Bioterror Fears Rising, An Expert Winds Up on Trial," *Wall Street Journal* 14 April 2003, accessed 2 September 2005 at (<http://www.ph.ucla.edu/epi/bioter/expertwindsuptrial.html>).

28. Primoratz makes this point in "State Terrorism and Counter-terrorism," in Igor Primoratz, ed., *Terrorism: The Philosophical Issues* (Basingstoke: Palgrave-MacMillan, 2004), p. 117.

29. For example, a Texas physician imported plague germs from Africa in a vial in his pocket. A report on this incident stated that: "The cork in the vial was literally the only protective barrier between the germs and the air. Even more disturbing was the physician's claim that this means of getting extremely infectious agents from one country to another is common in the academic and research community" (Lawrence W. Bierlein, "Hazmat in First Class," *Logistics Today*. Accessed 2 September 2005 at (<http://www.logisticstoday.com/sNO/6355/iID/20876/LT/displayStory.asp>).

30. The whole concept of a "right to security" that must be balanced against the right to liberty in times of serious threat has been questioned by several writers. For example, in "Security and Liberty:

the Image of Balance" (*The Journal of Political Philosophy* 11, pp. 191–210), Jeremy Waldron argues that the image of balancing these rights against each other is both misleading and conceptually unsound—it is unclear, for example, how one should perform such a balance. In "Balancing Liberty and Security? A Critique of Counterterrorism Rhetoric," Christopher Michaelson argues that the right to liberty and the right to security are not conceptually separable—the right to liberty is a precondition for security (particularly security from state interference) (pp. 5–8). The author agrees that the concept of the right to liberty and the right to security as two separate and competing rights is both misleading and possibly incoherent, but this article uses the terms separately, in order to see what follows from counterterrorism rhetoric about these "competing" rights.

31. See Brendan Nicholson, "Push to ban 'glorification' of terrorism; Australia may follow new British laws," *The Age*, 30 August 2005.

32. Robert Young, for example, argues that one of the defining features of terrorism is "the use, or threat of the use, of violence is intended to generate anxiety, fear, or terror, or to cause a breakdown in normal levels of trust in a society, among some target group" ("Political Terrorism as a Weapon of the Politically Powerless," in Tony Coady and Michael O'Keefe, eds., *Terrorism and Justice* (Melbourne: Melbourne University Press, 2002), p. 23).

33. See Mark J. Landau, et al. "Deliver Us From Evil: The Effects of Mortality Salience and Reminders of 9/11 on Support for President George W. Bush," *Personality and Psychology Bulletin* 30 (9), pp. 1136–1150.

34. Tuberculosis kills around 1.7 million people a year (Jackson, p. 92) SARS has killed less than 1,500. For full statistics, see the World Health Organisation website at (<http://www.nationmaster.com/graph-T/hea.sar.fat>).

35. Thanks to Tony Coady for this suggestion.

36. Karen Jones, "Trust and Terror," in Peggy DesAutels and Margaret Urban Walker, eds., *Moral Psychology: Feminist Ethics and Social Theory* (Lanham, MD: Rowman & Littlefield, 2004), p. 10.

37. *Ibid.* p. 11.

38. *Ibid.* p. 15.

39. *Ibid.* p. 8–9.

40. Susan Brison, *Aftermath: Violence and the Remaking of the Self* (Princeton, NJ: Princeton University Press, 2002), quoted in Jones, p. 11.

41. Jean Hampton and Jeffrie Murphy, *Forgiveness and Mercy* (United Kingdom: Cambridge University Press, 1988), p. 25.

42. Primoratz, "What is Terrorism?" p. 17.

43. The second categorical imperative is "(Formula of Humanity) says: 'Act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means.'" See Kant, *Groundwork of the Metaphysics of Morals*. Translated by Mary Gregor. *Cambridge Texts in the History of Philosophy* (Cambridge: Cambridge University Press, 1998).

44. Thanks to Tony Coady for his comments on this section.

45. What will constitute a normal or acceptable threat is of course highly context-dependent. In countries with a high rate of car accidents, the level of "normal" threat would be quite different than a country with a low rate.

46. Waldron, p. 198.

47. Waldron, pp. 209–210.

48. Louw, p. 211–212.

49. Michaelson, "Balancing Liberty and Security?" p. 20.

50. Ian Black, "Politicians, Media blamed for rising anti-Muslim bias," *Sydney Morning Herald* online edition, 25 May 2002. Accessed 11 August 2005 at (<http://www.smh.com.au/articles/2002/05/25/1022243271744.html>).

51. What measures should be adopted to fight terrorism? A full discussion of effective counterterrorism measures is beyond the scope of this article, but there are ways of assessing effectiveness. For example, there is substantial evidence that the problems of assessing information

gained through torture far outweigh possible benefits—this problem was one of the reasons torture ceased to be part of the judicial procedure (Jean Maria Arrigo, “A Consequentialist Argument against the Torture of Terrorism Suspects,” paper presented at the *Joint Services Conference on Professional Ethics*, Springfield Virginia, 2003. Last accessed 15 February 2005 at (<http://www.usafa.af.mil/jscope/JSCOPE03/Arrigo03.html>). It is worth considering some successful antiterrorist campaigns. The FBI, for example, has successfully stopped some instances of domestic terrorism not by increased powers of detention or by torture but through long-term operations involving “informants, electronic surveillance networks, and undercover agents” (Arrigo). It is also worth noting that one of the assumptions behind current counterterrorism rhetoric is that existing police and intelligence procedures are insufficient, whereas in fact terrorist acts such as 9/11 often happen at least partly because already existing procedures are not being utilized correctly or are being corrupted (Dworkin, p. 9).

52. Wolfgang Heinz, “The Military, Torture and Human Rights: Experiences from Argentina, Brazil, Chile, and Uruguay,” in Ronald D. Crelinsten and Alex P. Schmid, eds., *The Politics of Pain: Torturers and Their Masters* (Colorado: Westview Press, 1993), 65–98, at 80.

53. Quoted in John Barry, Michael Hirsch, and Michael Isikoff “The Roots of Torture: The road to Abu Ghraib began after 9/11, when Washington wrote new rules to fight a new kind of war. A NEWSWEEK investigation,” *Newsweek*, 24 May 2004, p. 26.

54. Quoted in Major William D. Casebeer, “Torture Interrogation for Terrorists: A Theory of Exceptions (with Notes, Cautions, and Warnings).” Paper presented at the *Joint Services Conference on Professional Ethics*, Washington D.C., 2003. Last accessed 15 February 2005 at (<http://www.usafa.af.mil/jscope/JSCOPE03/Casebeer03.html>), p. 2.

55. Michaelsen, “Antiterrorism Legislation in Australia,” p. 334.

56. Michaelsen notes that, far from being limited to fighting terrorism, there is a trend to extend ASIO and police powers to other criminal investigations. For instance a draft bill of March 2004 proposes to give police the power to tap phones and install bugs without needed a regular judicial warrant. (Michaelsen, “Antiterrorism Legislation in Australia,” p. 334).

57. Dworkin, p. 5.

58. Herbert C. Kelman “The Social Context of Torture: Policy Process and Authority Structure,” in Ronald D. Crelinsten and Alex P. Schmid, eds., *The Politics of Pain: Torturers and Their Masters*, pp. 19–34 (Colorado: Westview Press, 1993), p. 27.

59. Arrigo.

60. Jan Narveson, “Terrorism and Morality,” in R. G. Frey and Christopher W. Morris, eds., *Violence, Terrorism and Justice* (Cambridge: Cambridge University Press. 1991), p. 164.

61. Michaelsen, “Antiterrorism Legislation in Australia,” p. 326.

62. Michaelsen, “Balancing Liberty and Security?” p. 18.

63. Hardin notes that the FBI “reputedly floated the estimate of 5,000 Al Qaeda operatives in the U.S.” (Hardin, 80).

64. *Ibid.*, p. 180.

65. James Reynolds, “Dirty War—More than a Memory,” *BBC News Online*, 24 March 2001. Accessed 11 August 2005 at (<http://news.bbc.co.uk/2/hi/americas/1239826.stm>).

66. Dworkin, p. 1.

67. Hersh, p. 2.

68. *Guardian Unlimited*, “People the Law Forgot,” 3 December 2003. Accessed 5 September 2005 at (<http://www.guardian.co.uk/guantanamo/story/0,13743,1098604,00.html>).

69. Igor Primoratz, “State Terrorism” in Tony Coady and Michael O’Keefe, eds., *Terrorism and Justice* (Melbourne: Melbourne University Press, 2002), pp. 37–38.

70. Waldron, pp. 203, 205.

71. *Ibid.* pp. 205.

72. Michaelsen, “Balancing Liberty and Security?” p. 17.

73. Michaelsen, “Antiterrorism Legislation in Australia,” p. 330.

74. Jackson, pp. 95, 98–103.

75. The amount of funding directed to counterterrorism operations is staggering. The Department of Homeland Security (created in response to the terrorist threat) is now the

third-largest Federal agency, and employs over 40,000 staff and the total cost of the “War on Terrorism” in the first two years after 11 September 2001 was over \$100 billion dollars (Jackson, p. 15).

76. Jackson discusses the rhetoric about the Iraq war on pages 134–149.
77. Jackson, p. 15.
78. Landau et al., p. 1148.