TERRORISM: NATIONAL LEGAL CONTROL REGIME IN UNITED STATES AND UNITED KINGDOM

The costs of terrorism accrue not only in human lives and government budgets, but in a forfeit of civil liberties. “We are beginning to see the increasing use of terrorism to demonise political opponents, throttle freedom of speech and the press, and delegitimise legitimate political grievances,” warns U.N. Secretary-General Kofi Annan.¹

The rule of law is the foundation on which all democratic societies rest. Terrorism in all its guises, not only flouts the law, but seeks, through acts of arbitrary and unforeseen violence aimed at the general public to undermine their confidence in the security that the legal system is designed to provide. We have till now found it difficult to frame effective laws to tackle terrorist activity.

Terrorism poses a mortal threat to democracy everywhere. There is now a genuine need for a proper legislation, which stems the tide of terror in the world. The United Kingdom has faced the problem of terrorism with more intensity than the United States because of the trouble in Ireland. Still an effective law eludes them. Now especially after July 7 bombing, the United Kingdom also doesn’t seem safe any more. After the tragic events of September 11, countries around the world enacted a spate of security laws. In this chapter the problem of terrorism faced by two major countries of the world i.e. the most powerful country, the United States and one of the oldest countries of the world, the United Kingdom will be discussed along with the latest laws enacted by them to curb terror in their regions.

Problem of Terrorism in United States

The American lack of a sense of history and the unique American geographical endowment has protected America from various incidents of terrorism and their outcome. This immunity is the result of the geographic separation from the main sources of terrorism. Over the past decades, the United States has been a prominent target internationally while enjoying
virtual sanctuary within its borders. U.S. security interests have been threatened by terrorism, but they have never been seriously affected as a society. At no time was the stability of the US ever jeopardised by domestic or international terrorism. Nevertheless, American citizens and US interests have been the frequent targets of terrorism overseas.

Before the 1990s, acts of terrorism faced by the U.S. authorities were mostly inter-racial and domestic, which lacked an international dimension. Violence was usually inflicted by the members of the white majority against the Afro-American minority.

Until the Oklahoma City bombing of 1995 and, especially the attacks on the World Trade Centre and the Pentagon in 2001, the United States had suffered less from terrorism than many other developed nations. However, there are incidents of violence in the US history. United States itself was created with means of terrorism when they rebelled against the British. In George Washington's presidency, terrorism was committed by Pirates. 115 years ago Chicago's Haymarket Square was bombed. There were also individual killers/anarchists who assassinated political leaders of Russia, Austria, Italy, France and the President of the United States, William McKinley, all between 1881 and 1901. During the first half of the 19th century, the bitter battle over slavery gave rise to terrorism on both sides, such as violence over Kansas statehood that gave rise to the term bleeding Kansas. Following the Civil War, southern whites brutally repressed the freed blacks. Race remained a persistent source of terrorism in the United States. In the later 19th and early 20th century, labour struggles were another major source of terrorism.

In the 1860s and 1870s, a terrorist organisation by the name of Molly Maguires menaced the anthracite coal-mining region of eastern Pennsylvania. The catalyst for their violent activity was the savage depression of 1873. Unemployment and ruthless employer exploitation of workers led to the assassination and sabotage and robbery by this organisation. They vented

their wrath on not only the owners of the mines, but on fellow workers of Welsh and German extraction as well. The Haymarket Square bombing in 1886 was the first of several bloody altercations between factory police and militant miners and steelworkers.

In addition to the largely peaceful civil rights and antiwar movements, the social upheaval of the 1960s also spun off a variety of leftist terrorist groups. Left-wing terrorists grew out of the anti-Vietnam war protests and the Civil Rights movement of the 1960s. However, the end of the Vietnam War and the prosperity of the 1980s led to the diminishment of left-wing terrorism in the United States.

In October 1966, two young black men founded the Black Panther Party, the aim of which was to protect the black community from police persecution. Although they did not intend to terrorise, but by deliberately assuming an aggressive stance, their organisation drifted into provocative and violent confrontation. In the opinion of J. Edgar Hoover, head of the FBI, the Panthers were "the greatest threat to the internal security of the country."4

In the 1960s, terrorism affected the United States in a number of ways. Frustrated with the slow pace of social change and, in the eyes of some, simply bored with their middle class privilege, some radical activists broke off from Students for a Democratic Society to found the violent group Weatherman. Puerto Rican nationalists, Jewish extremists, and single-issue terrorist organisations such as the ecoterrorist group Earth First also became active in this era.5

In the late 1980s and 1990s, most terrorism came from the right wing. Its motivations included white supremacy (as with the Aryan Nations and the Ku Klux Klan, as well as Christian Identity groups that espoused a theology of whiteness) as well as more generalised populist revolt against what many people, particularly in rural areas, perceived to be a too-powerful federal that served alien economic interests.6

Before the 1970s, most Americans would think of horror movies or general fear when hearing the word terror. Some of the well educated might

4 Crenshaw and Pimlott, id., p. 532.
have thought of the Reign of Terror in revolutionary France or perhaps the biblical King of terrors. Others might even have confused the word with a cuddly breed of dog: the terrier. But a string of events politically charged the word, and now it is a rhetorical hot potato. After a string of hijackings commanded national attention in the 1970s and 1980s, the word came to mean something other than fantasy violence or simple fear; these hijackings were warlike acts with real, bloody, and televised results. A terrorist came to describe someone who committed these so-called acts of terrorism.

In the 80's La Gaurdia airport and Congress were targets and Embassies in Africa, the U.S.S. Cole, 1st bombing of the World Trade Centre, and Oklahoma City in the 1990's.

The Oklahoma City bombing is one of the major terrorist incidents in the US. The series of incidents, which prompted such an act, were. McVeigh was angered by the Waco tragedy in Texas and had vowed revenge. On April 17, 1995, he rented a Ryder truck and loaded it with approximately 5,000 pounds of ammonium nitrate fertiliser. On the morning of April 19th, McVeigh drove the Ryder truck to the Murrah Federal Building, lit the bomb’s fuse, parked in front of the building, left the keys inside the truck and locked the door, then walked across the parking lot to an alley, then started to jog. On the morning of April 19, 1995, most employees of the Murrah Federal Building had already arrived at work and children had already been dropped off at the daycare center when the huge explosion tore through the building at 9:02 a.m. Nearly the entire north face of the 9-story building was pulverised into dust and rubble. In took weeks of sorting through debris to find the victims. In all, 168 people were killed in the explosion, which included 19 children.

Before the mid-1990s, almost all terrorism against the United States had been backed by a State. The Soviet Union had financed and trained terror groups around the world. Syria, Iran, Iraq and Libya had all sponsored terrorism. The most dramatic attacks on Americans – the Beirut Marine-barracks bombing in 1983, and Pan Am 103 in 1988 – had both been

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7 Briglass, terrorism @ everything.com. on the internet at: http://www.everything2.com/index.pl?node=terrorism
encouraged if not planned by governments. Even the group that bombed Khobar Towers, the American barracks in Saudi Arabia, got support from Iran.

US faces the threat posed by Middle Eastern terrorists, who target the mainland. The reason behind this is that the US has been involved in the Middle East. Its role became even more dominant following the Gulf Crisis (1990-91) and also because of its attempts to broker peace between the Palestinians and Israel. Islamic fundamentalist terrorists react with acts of terror against the US because of its friendship with Israel.

World-wide there have been even more examples of terrorism such as the Munich Olympic Massacre, PanAm Flight 103 in Lockerbie, Scotland, and various suicide bombings in Chechnya, Israel, and Iraq. United States like most other countries has had to deal with terrorism in one form or another although not to the same extent. Internationally until 1979, US government personnel and installations were attacked infrequently. In 1979 Iranian students and the Revolutionary Guard seized the US embassy and its diplomatic personnel in Teheran. Americans made desirable targets for terrorists. In 1983 the bombings of the US embassy and the Marine barracks in Beirut cost 305 American lives.8 9

The strategy of the terrorists in the Arabian peninsula was to strike at highly symbolic American targets: the 1995 car bombing of a U.S. run training facility for the Saudi National Guard in Riyadh, which killed five Americans; the destruction of the U.S. embassies in Kenya and Tanzania in 1998; and the attack on the U.S.S. Cole in October 2000.

Further terrorist incidents in this country have included bombings of the World Trade Centre in New York City, the United States Capitol Building in Washington, D.C. and Mobil Oil corporate headquarters.

The first attack on the World Trade Centre was in 1993. The terrorists drove a 1,500-pound urea-nitrate bomb into the basement area of the World Trade Centre and then set the timer and left. The explosion rocked the World Trade Centre killing six people and injuring over a thousand others. These criminals dawned a new age in terrorism, the wholesale attack on civilians

8 Jennifer Rosenberg, Oklahoma City bombing. On the internet at: http://history1900s.about.com/cs/crimedisaster/p/okcitybombing.htm

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with the desire to inflict as much damage as possible. The men that committed this heinous crime have been linked to several terrorist groups including the Islamic Jihad, Hamas and Sudanese National Islamic Front.

The second and the most heinous of all attacks happened on the morning of September 11th 2001 when terrorists hijacked four commercial jet planes and attempted to fly them into several U.S. targets. One of the planes, American Airlines Flight 11, crashed into Tower One of the World Trade Centre at 8:50 AM. United Airlines Flight 175 crashed into Tower Two at 9:04 AM. As the world watched Tower Two collapsed to the ground at about 10:00 AM. Unfortunately, this horrible scene was duplicated at 10:30 AM when Tower One crashed to the ground. This terrorist attack brought about the death of approximately 3,000 men, women and children from nations around the world. Although, this attack killed numerous Americans, its perpetrators have brought about the wrath of the civilised world. This heinous crime was coupled with an attack on the Pentagon and a failed attempt that crashed into the fields of Pennsylvania.

For the attack on the Pentagon they used American Airlines Flight 77 like a missile and crashed it into the Pentagon at 9:38 AM. The Pentagon caught fire and part of the building collapsed. In this tragic event 189 civilians and military personnel lost their lives. The United States suffered a major attack by terrorism on September 11, 2001. It was the worst terrorist attack on American soil, and like Pearl Harbor, snapped America out of a false sense of security. Those responsible were identified as belonging to al-Qaeda, led by Osama bin Laden, headquartered in Afghanistan, and supported by a regime known as the Taliban. Al-Qaeda is only one of numerous Islamic militant groups, and some experts have argued we need to classify al-Qaeda as Islamo-fascist for its extreme fundamentalist beliefs, but al-Qaeda prefers to think of itself as mujahideen (holy warriors). In response to 9/11, the President announced a War on Terrorism in front of Congress on September 20th, and the following is an excerpt:

“We will direct every resource at our disposal, every means of diplomacy, every tool of intelligence, every instrument of law enforcement, every financial

9 David A. Charters, ed., The Deadly Sin of Terrorism: Its Effect on Democracy and Civil Liberty in Six
influence, and every necessary weapon of war to the disruption and eventual defeat of terrorism. Every nation now has a decision to make. Either you are with us, or you are with the terrorists. From this day forward, any nation that harbours or supports terrorism will be regarded as a hostile regime. We will do far more than retaliate. Americans should expect a battle unlike any other they have ever seen, not one battle, but a lengthy campaign, some visible, others secret. We will drive terrorists from place to place until there is no refuge or rest."10

September 11 was not only the first attack on the American mainland in 150 years, but it was also sudden and unexpected. Three thousand civilians were brutally killed without any warning. In the months that followed, Americans worried about anthrax attacks, biological terror, dirty bombs and new suicide squads. The average American feels a threat to his physical security unknown since the early years of the republic.11 This attack on the Twin Towers and the Pentagon demonstrated remarkable technological, financial and practical agility.

National Security Laws

The United States has enacted several pieces of legislation to improve the effectiveness of its anti-terrorism program at both the state and federal levels. In 1974, Congress passed Public Law 93-366, which included the Antihijacking Act and the Air Transportation Security Act, giving the FAA authority over aircraft terrorism. In 1976, it passed Public Law 94-467, the Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons in order to ratify and give force in the US to the 1973 UN Convention. This allowed the US to issue warrants and extradition requests for the hijackers of TWA Flight 847 and the Achille Lauro.

The Omnibus Anti-terrorism Act of 1986, also known as the "long arm of the law" statute, made terrorist acts against Americans abroad a federal crime and permitted arrest overseas and trial in US courts. The Anti-terrorism and Arms Export Amendments Act of 1989 prohibited the export of military

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equipment or munitions to any state supporting international terrorism. The same year the US ratified two treaties that extended the “prosecute or extradite” principle to attacks on civilian airports and shipping.\textsuperscript{12}

The thrust of US counterterrorism policy has been the application of economic sanctions against state sponsors, multilaterally where possible, and domestic legislation. Counterterrorism legislation developed under the Clinton Administration reflects the changing nature of terrorism and focuses on transnational threats, weapons of mass destruction, and terrorist funding sources. The United States has been committed in principle to the policy of “no negotiations” with terrorists.\textsuperscript{13}

The Antiterrorism and Effective Death Penalty Act (1996) signalled an important shift in US policy, away from state sponsors to independent groups and non-state actors. It created a new legal category of ‘foreign terrorist organisations’ (FTOs) and banned funding, visas and other material support. The act also established guidelines for the seizure or ‘rendering’ of terrorist suspects from abroad and authorised the Secretary of State to designate terrorist organisations and states deemed to be sponsoring terror.

In the aftermath of the 11 September bombings, the enactment of the Uniting and Strengthening of America to Provide Tools Required to Intercept and Obstruct Terrorism Act – ‘USA-Patriot’ took place on 26 October, 2001. It gave increased authority to investigate suspected terrorists and authorised ‘roving’ (or practically unlimited) wiretaps and disclosure of foreign intelligence information obtained in criminal investigations to intelligence and national security officials – breaking down the long established ‘firewall’ on such inter-agency information pooling.\textsuperscript{14}

In contrast to other countries, the United States has no legal definition of terrorism. There is no organised body of legislation one might call the law of terrorism, and there is no inherent crime of terrorism (terrorists are charged with other offences). There is a long-standing legal code called Title 18, Part I, Chapter 113B, Section 2331 which is entitled "Terrorism" and attempts to

define it, but it is essentially all about international terrorism and represents America's version of outlawing internecine conflict on its soil. Internecine conflict is when someone else's battle spills over on your land, which might not seem important, but terrorists often disregard any respected areas of combat or demarcated battlefields. Constitutionally (at least for now), it is not illegal to claim you are a terrorist, belong to a terrorist group, or be suspected of being a terrorist. Ninety percent of the time, suspected terrorists do nothing wrong until they commit an indictable act. Indicted terrorists are charged with other crimes -- planning for violence, raising funds illegally, and carrying out a violent act. The most common criminal charges against terrorists include bombing, arson, hijacking, assault, kidnapping, murder, theft, and sabotage. For terrorists who are captured before completing an act, the most common charges are illegal possession of explosives and weapons, illegal raising of funds, and conspiracy. International law only recognises the criminal corollaries of terrorism, such as conspiracy, kidnapping, murder, and arson. State criminal laws do recognise certain specific intent crimes, such as telephone harassment for terrorist purposes, along with other stalking and domestic violence offences, but these are not really referring to terrorism but forms of personal intimidation. The following alphabetical list of items make up what might be called the codified law of terrorism:

- AIRCRAFT & MOTOR VEHICLE SAFETY, Title 18, Part I, Chapter 2 - outlaws destructive uses of vehicles
- BIOLOGICAL WEAPONS, Title 18, Part I, Chapter 10 - bans the possession of any biological weapons
- CHEMICAL WEAPONS, Title 18, Part I, Chapter 11B - bans the possession of any chemical weapons
- CIVIL DISORDERS, Title 18, Part I, Chapter 12 - outlaws violent civil disorders or riots
- DISASTER RELIEF, Title 42, Chapter 68 - sets up interstate assistance compacts in case of emergency

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- EMERGENCY POWERS, Title 50, Chapter 34 - allows declaration of national emergency
- FOREIGN INTELLIGENCE SURVEILLANCE, Title 50, Chapter 36 - allows wiretaps on suspected terrorists
- IMMIGRATION, Title 8, Chapter 12, Section 1182 - allows deportation of conspirators to terrorism
- INTERNATIONAL TERRORISM, Title 18, Part I, Chapter 133B, Section 2331 -- outlaws political violence
- QUARANTINE & INSPECTION, Title 42, Chapter 6A, Subchapter II, Part G - allows border shutdowns
- REWARDS FOR ESPIONAGE, Title 18, Part II, Chapter 204 - rewards citizens who snitch on enemies of state
- SABOTAGE, Title 18, Part I, Chapter 105 - makes anything impeding a war effort illegal
- SEDITION, Title 18, Chapter 115 - outlaws conspiring to overthrow the government
- WAR POWERS, Title 50, Chapter 33 - allows President & Congress to jointly declare war
- WEAPONS OF MASS DESTRUCTION, Title 50, Chapter 40 - bans possession of any such weapons

Codified laws, like the above, have stood the test of time, and in addition have received the approval of various jurist associations. There is little chance of misunderstanding a codified law. Next in order of importance, are the court cases which have established precedent as binding and guiding forces of law. The following selected cases make up what might be called the case law of terrorism:

- Dennis v. United States, 341 U.S. 494 (1951) - The constitutional right to free speech only applies to discussion or explanation of doctrines or ideologies that urge the overthrow of the government. Speech that advocates such overthrow or interferes with vital matters of national security is not protected.
• **Yates v. United States**, 354 U.S. 298 (1957) - To qualify as an indictable enemy of the U.S., a person must take some concrete steps toward harmful action, and not simply be expressing their opinions.

• **Scales v. United States**, 367 U.S. 203 (1961) - Persons who belong to enemy groups with only a supportive, passive, or inactive role are just as indictable as those who play more active roles.

• **Brandenburg v. Ohio**, 395 U.S. 44 (1969) - Puts the burden of proof on prosecutors to show political speech is inherently violent, and removes the burden on defendants to show it was vague.


• **Reno v. American-Arab Anti-Discrimination Committee**, 97-1252 (1999) - Immigrants can be deported for engaging in terrorist or political activities where evidence supporting such claims is presented in secret.

• **Kiareldeen v. Reno**, 71 F. Supp. 2D 402, 419 (D.N.J. 1999) - Immigrants on student visas can be deported on the basis of secret evidence that supports claims they are terrorists or dangerous.

In addition to codes and cases, there is what is called "public law" which consists of legislation signed into law. Often, these have not yet passed constitutional muster, but they represent what the legislative branch of government thinks ought to be done quickly. The following acts are a select list of what makes up the **public law of terrorism**:

• **Title 22, Chapter 38, Sec. 2656f Annual Country Reports on Terrorism** -- Since 1988, the Dept. of State has been required to submit to Congress a detailed report on major, "significant" terrorist events.

• **Antiterrorism and Effective Death Penalty Act of 1996** -- Bans terrorist fundraising in the United States, sets up an expedited alien terrorist removal system, modifies the procedures for requesting political asylum, curtails the appeal process, increases the penalties for conspiracies involving explosives and other terrorist crimes, applies the
money laundering statute to terrorism, and clarifies federal and state police jurisdiction over investigating terrorism.

- **Suppression of the Financing of Terrorism Convention Implementation Act of 2001** -- Enhances penalties for knowingly concealing or disguising the nature, location, source, ownership, or control of material support or resources to terrorists.

- **Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001** -- Enhances roving surveillance authority and streamlines wiretap authorisations, sets up anti-terrorism asset forfeiture procedures, approves detention of suspected terrorists, removes obstacles to investigating terrorism, increases the penalties for terrorist crimes, removes any statute of limitations, encourages federal involvement in domestic preparedness exercises, and supporting creation of a new agency called the office of Homeland Security.

- **Aviation and Transportation Security Act of 2001** -- creates a new federal agency called the Transportation Security Administration as well as a federal Air Marshals program.

- **Enhanced Border Security and Visa Entry Reform Act of 2002** -- Sets up joint military, police, and intelligence community tracking systems for facial recognition, voice intercept, and other technologies useful in improving border security.

There are codes, cases, and legislation, the pronouncements made by the executive branch of government, called Executive Orders, Decisions, Declarations, or Directives. The most well-known of these is probably the Presidential Decision Directive, or PDD, which has a long history of use going back to creation of the NSA and the launching of various secret missions during the Vietnam War. Many documents in this category are classified, but others are easily found on the White House web site. They are considered binding "administratively" upon government employees who work for an executive branch agency. The most common type of administrative law is made up of regulations passed by the heads of various agencies, but with
terrorism, many executive decisions are made, so the following documents would make up the administrative law of terrorism:

- **Executive Order on Terrorist Financing** (September 18, 2001) - Blocks and prohibits financial transactions designed to support terrorist groups not yet designated by the U.S. Department of State as foreign entities that support terrorism.


- **Homeland Security Presidential Directive-2** (October 30, 2001) - Sets up aggressive, new immigration policies to locate, detain, prosecute, and deport suspected terrorists.

- **Military Order for the Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism** (November 13, 2001) - Reserves law enforcement, judicial, and correctional authority to the Secretary of Defense.

Finally, there are Agreements, Treaties, Declarations, Resolutions, Conventions and Protocols entered into by the United States and other nations, or by all nations as a whole via the United Nations. There is considerable difference of opinion about whether such documents are legally binding on non-co-operating entities or groups at the sub-national level, but they do, to some extent, represent the international community's consensus on terrorism, war crimes, and crimes against humanity. The following categories make up the international law of terrorism:

- **Laws of War** - The Hague Conventions produced at least 21 international agreements on the rules of war, including notions on the rules of engagement, and the Geneva Conventions, among other things, produced special protections for innocent persons and civilians, as well as banning guilt by association at international law. Specifically
banned are acts or threats designed to spread terror by the use of indiscriminate violence.

• **Piracy Law** - A collection of Conventions, Declarations and case law which describe crimes against humanity and common enemies of humankind, most notably hijackers and hostage takers, and sets up a system of international extradition. Recent examples include the Paris Declaration, Tokyo Convention, and Montreal Convention.

• **Diplomatic Law** - A set of Treaties and Conventions, such as the Franco-Belgium Treaty of 1834 and Venice Statement of 1980, which remove any possibility of claiming harm against heads of state and diplomats is a political crime. Instead, such acts are to be regarded as common crimes subject to criminal penalties.

• **U.N. Resolutions** - Statements of condemnation and calls to action convened in Conventions to vote on behaviour regarded as threatening to world peace and security. To date, at least twelve major conventions have been signed and ratified by the member-states of the United Nations.

The USA Patriot Act of 2001, signed into law on October 26, represents the U.S. government’s primary legislative response to the terrorist attacks of September 11. This new law focuses mainly on reinforcing the arsenal of tools available to the Central Intelligence Agency, the Federal Bureau of Investigation, and federal prosecutors for identifying and disabling terrorist networks operating both within and outside the United States.

The act is a complex statute covering a wide range of laws. It creates new crimes, new penalties and contains many provisions enabling the US government and law enforcement agencies to better co-ordinate their information exchange and working procedures. The Patriot Act is divided into 10 sections called “titles” and contains hundreds of individual changes in the US law. The titles indicate the scope of the act:

1. Enhancing Domestic Security Against Terrorism
2. Enhanced Surveillance Procedures
4. Protecting the Border
5. Removing Obstacles to Investigating Terrorism
6. Providing for Victims of Terrorism, Public Safety Officers, and their Families
7. Increased Information Sharing for Critical Infrastructure Protection
8. Strengthening the Criminal Laws Against Terrorism
9. Improved Intelligence
10. Miscellaneous

The Patriot Act includes numerous provisions for phone tapping, electronic surveillance, search warrants, police custody of immigrants suspected of terrorist activities or of supporting terrorists, that are a serious hindrance to liberties. It is impossible to deal with all the sections here, but a summary of the important provisions is discussed as under:

**Title I – Domestic Security**

Section 102 expresses the Sense of Congress condemning discrimination against Arab and Muslim Americans.

**Title II – Surveillance**

Section 201 and 202 provide authority to intercept wire, oral or electronic communications relating to terrorism, computer fraud and abuse offences. Section 203 grants authority for grand jury and electronic, wire and oral interception information to be shared with immigration officials when a matter of foreign intelligence or counterintelligence is involved.

**Title III – Money Laundering**

Section 326 requires the Secretary of the Treasury to establish a system by which banks can verify the identity of account holders and match their names against a list of known terrorists and terrorist organisations to prevent money laundering.

Section 329 provides for criminal penalties. It says that any person who is an official or employee of any department, agency, bureau, office, commission, or other entity of the Federal Government, and any other person who is acting for or on behalf of any such entity, who, directly or indirectly, in connection with the administration of this title, corruptly demands, seeks,
receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for—

(1) being influenced in the performance of any official act;

(2) being influenced to commit or aid in the committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(3) being induced to do or omit to do any act in violation of the official duty of such official or person,

shall be fined an amount not more than 3 times the monetary equivalent of the thing of value, or imprisoned for not more than 15 years, or both. A violation of this section shall be subject to chapter 227 of title 18, United States Code, and the provisions of the United States Sentencing Guidelines.

Title IV — Protecting the Border
Subtitle A — Protecting the Northern Border
Section 402 authorises a tripling of the number of Border Patrol personnel, Customs personnel, and immigration inspectors along the Northern Border and an additional $50 million each for Customs and INS to improve monitoring technology along the Northern Border.

Section 403 grants INS and State Department personnel access to the FBI's NCIC-III and the Wanted Persons File for the purpose of checking the criminal history of a visa applicant. INS and State would have access only to extracts from the actual databases, and would have to submit the visa applicant's fingerprints in order to get the full criminal history. This section also instructs the Attorney General and the Secretary of State to develop and certify within two years of enactment a technology standard that can be used to verify the identity of visa applicants and that can be used as the basis of an integrated system that will verify identity at ports of entry and share information with other law enforcement agencies.

Section 404 removes the existing restrictions on overtime pay for INS personnel.

Section 405 requires the Attorney General to report to Congress on the feasibility of expanding the FBI's Integrated Automated Fingerprint Identification System (IAFIS) to include visa applicants and visa holders.
wanted in connection with a criminal investigation, so they may be denied a visa or identified upon entry into or exit from the United States.


Section 411 broadens the grounds for excluding terrorists and aliens with ties to terrorist organisations. It authorises the exclusion of the spouses and children of aliens who have committed acts linking them to terrorist organisations within the past five years and makes inadmissible any alien determined by the Attorney General and the Secretary of State to have been associated with a terrorist organisation and who intends to commit terrorists acts in while in the United States. (Such aliens already are excludable under current law, since they are entering with the intent to engage in "unlawful activity.")

Section 412 directs the Attorney General to detain any alien certified to be engaged in terrorist activities. It authorises the Attorney General to certify any alien as a terrorist where there are reasonable grounds to believe that he is affiliated with a designated terrorist organisation or engaged in terrorist activities. It requires the Attorney General to place such aliens in removal proceedings, charge them with a criminal offence or release them within seven days of taking them into custody. It authorises the Attorney General to detain certified terrorists for additional periods of up to six months if their removal is unlikely in the near future and if the alien’s release will threaten national security or public safety. It limits judicial review of such detention to habeas corpus proceedings. Finally, it requires the Attorney General to report to Congress every six months on the number of certified aliens, the grounds for certification, their nationalities, the length of their detention, and the disposition of their cases.

Section 413 authorises the Secretary of State to share information in State’s visa-lookout database and, under certain circumstances, information on individual aliens with foreign governments in order to combat terrorism and trafficking in controlled substances, persons, or weapons.

Section 414 expresses the Sense of Congress regarding the need to expedite implementation of the integrated entry and exit data system enacted in Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996. It requests that the Attorney General fully implement
this system at airports, seaports, and land border ports "with all deliberate speed and as expeditiously as practicable." It directs the Attorney General to focus on the use of biometric technology and the development of tamper-resistant, machine-readable documents during the development stage of the entry and exit system. It requires that the resulting system be interfaced with law enforcement databases used by federal agencies to identify and detain individuals who pose a threat to U.S. security. Finally, it requires the Office of Homeland Security to report to Congress within 12 months on "the information that is needed from any United States agency to effectively screen visa applicants and applicants for admission to the United States to identify" terrorists and other dangerous aliens.

Section 415 directs the Office of Homeland Security to participate in the development of the entry and exit system.

Section 416 directs the Attorney General to implement fully and to expand the foreign student tracking system enacted in the 1996 IIRIRA. It requires the student database to include information on the date and port of entry and it authorises the Attorney General to permit flight schools, language training schools, and vocational schools to participate in the expanded program.

Section 417 requires the Secretary of State annually to audit the implementation of the requirement that visa waiver countries issue machine-readable passports to their citizens. It advances the deadline by which countries must issue machine-readable passports in order to participate in the visa waiver program from 2007 to 2003, and it authorises the Secretary of State to waive this requirement for countries that are "making progress toward" issuing machine-readable passports and have "taken appropriate measures to protect against misuse of current passports.

Section 418 directs the Secretary of State to determine whether consular shopping – the practice of travelling to a third country to apply for a visa to the United States, in order to avoid tighter security practices in the Consulate in one's home country – is a problem and to address it if it is.

Subtitle C – Preservation of Immigration Benefits for Victims of Terrorism

Section 421 authorises the Attorney General to grant special immigrant
Section 422 automatically extends by up to one year the authorised period of stay for nonimmigrants who were disabled by the terrorist attacks, along with their spouses and children. It extends the authorised period of stay for nonimmigrants who were prevented from entering the United States because of the terrorist attacks and permits FY 2001 diversity lottery winners who were prevented from entering the United States by the terrorist attacks to enter during the first six months of FY 2002, but to be counted against the quotas for FY 2001. It also grants legal permanent residence to the spouse and children of any FY 2001 diversity lottery winner who died as a result of the terrorist attacks. Finally, it extends the grant of parole for any parolee who was out of the country and unable to return before his or her parole expired on or after September 11, 2001, and it extends for 30 days any period for voluntary departure that expired between September 11 and October 11, 2001.

Section 423 permits aliens who entered the country as the spouses or minor children of U.S. citizens to retain immediate relative status, even though the citizen-sponsor died as a result of the terrorist attacks. It permits the spouses, children, and unmarried adult sons and daughters of lawful permanent residents, for whom immigration petitions have been filed, to retain their status as valid petitioners, even though the resident-alien petitioner died as a result of the terrorist attacks. It permits those spouses, children, and unmarried adult sons and daughters of lawful permanent residents for whom no petition was filed to file a petition on their own behalf for lawful permanent residence. It allows any alien who is the spouse or child of an alien killed in the terrorist attacks and who had applied for adjustment of status to lawful permanent residence to have the application adjudicated as if the death had
not occurred. Finally, it waives the public charge grounds for inadmissibility for all aliens granted benefits under this section.

Section 424 authorises any alien whose 21st birthday occurred in September 2001 to be considered a minor child for an additional 90 days for purposes of adjudicating a petition or application for immigration benefits, and any alien whose 21st birthday occurs after September 2001 to be considered a minor child for an additional 45 days for purposes of adjudicating a petition or application for immigration benefits.

Section 425 authorises the Attorney General to provide "temporary administrative relief" to any alien who was here legally on September 10, is the relative of an individual who died or was disabled by the terrorist attacks, and is not otherwise entitled to relief under this subtitle.

Section 426 requires the Attorney General to establish standards of evidence for proving that any death, disability, or loss of employment due to physical damage to a business is the result of the terrorist attacks, for purposes of applying for the benefits under this subtitle.

Section 427 prohibits any benefits under this subtitle from being granted to terrorists or their family members.

Title V – Investigating Terrorism

Section 503 provides for DNA identification of terrorists and other violent offenders.

Section 504 authorises federal foreign intelligence officers who conduct surveillance and physical searches to consult with federal law enforcement officers to co-ordinate efforts to investigate or protect against foreign attack, sabotage, terrorism, or clandestine intelligence activities by foreign powers.

Section 507 authorises the Attorney General to seek an ex parte court order requiring an educational institution to turn over education records that are relevant to an investigation or prosecution of terrorism.

Title VIII – Criminal laws against terrorism

Section 801 prohibits terrorist attacks and other acts of violence against mass transportation systems.

Title X – Miscellaneous

Section 1002 expresses the Sense of Congress condemning violence against Sikh-Americans.
Section 1006 makes inadmissible to the United States any alien believed to be engaged, or seeking to engage, in money laundering. (Such aliens already are excludable under current law since they are entering to engage in "unlawful activity.") It also requires the Secretary of State to develop a money laundering watchlist to identify individuals who are known or suspected money launderers.

Section 1008 directs the Attorney General to conduct a study on the feasibility of using a biometric identifier scanning system, with access to the FBI's Integrated Automatic Fingerprint Identification System (IAFIS), at consular offices abroad and at ports of entry into the United States to identify aliens wanted in connection with criminal or terrorist investigations and to report his findings to Congress within 90 days.

Section 1009 directs the FBI to study and report to Congress on the feasibility of giving airlines direct access to the names of individuals suspected of terrorist activities.

Section 1012 prohibits any state from issuing a license to any individual to operate a vehicle transporting hazardous materials unless the Secretary of Transportation has first determined that the individual does not pose a security risk.

The U.S.A. Patriot Act (October 26, 2001) allows for longer detention of suspects, expanded surveillance and intelligence gathering powers by federal authorities. Congress passed additional anti-terrorism laws in the wake of September 11, and at least three states (Michigan, New Jersey, and New York) have passed their own anti-terrorism statutes.

The U.S. Patriot Act has enhanced the law enforcement authorities' reach into civil liberties and personal lives. Digital fingerprint identification and face recognition technology have been introduced at airports, which includes electronic body search that strips a person naked without being asked to take off clothes.

The controversial USA Patriot Act contains provisions that expand the government's authority to plant wiretaps, enter homes, search computers, and carry out other covert surveillance. The Act also permits the FBI to obtain private consumer records in secret from libraries, bookstores, hospitals and credit card companies, among other places, without probable cause. In
addition, the Act grants power to the Attorney General to subject citizens of other nations to indefinite detention.

The act contains several key provisions that enhance governmental counterterrorism efforts. For example, the act authorises the president to freeze assets under US jurisdiction of any person, organisation, or country, when US national security is threatened. In the area of criminal law, the act prohibits terrorist attacks against mass transportation systems and harbouring terrorists; gives the United States jurisdiction over crimes committed at US facilities abroad; considers terrorism “racketeering activity” so it can be prosecuted under the Racketeer Influenced and Corrupt Organisations (RICO) statute. Additionally it creates penalties for terrorist conspiracies such as attempting to provide material support for terrorism and punishes knowing possession of a biological agent that is not for research of other peaceful purpose with fines and/or imprisonment.

The Act contains many miscellaneous provisions, such as authorizing payments to individuals to furnish information leading to the prevention of terrorism or the identity of someone “who holds a key leadership position in a terrorist organisation” and prohibiting a state from issuing a license to operate a motor vehicle transporting hazardous material unless the secretary of transportation determines that the individual does not pose a security risk warranting the denial of the license.\footnote{See Kushner, supra 5 pp. 287-288.}

In a case under the USA Patriot Act before a US federal judge in Los Angeles, portions of the Act were struck down recently. Provisions aimed at blocking support for foreign terrorist groups were under consideration. The judge ruled that provisions that prohibit giving “expert advice or assistance” to foreign terrorist groups are so broad they infringe on speech protected by the First Amendment. Advice or assistance is one of several forms of “material support” prohibited under the Act.\footnote{See Kushner, supra 5 pp. 287-288.}

Since it was enacted soon after the September 11 attacks, critics argue that insufficient thought was given to the constitutionality and effect of some of the act’s provisions. Because it gives the government unprecedented power to monitor individual’s activities, some say it is an infringement of the Bill of
Rights. It particularly violates the rights of non-citizens and aims to silence political dissent.17

Even as widespread protest grows against the Patriot Act, the Department of Justice has been secretly drafting a new legislation called the Domestic Security Enhancement Act of 2003. “USA Patriot Act II” contains a multitude of new and sweeping law enforcement and intelligence gathering powers and expands on many provisions in the first Patriot Act. Specifically, the bill, if signed into law, would also:

- Make it easier for the government to initiate surveillance and wiretapping of U.S. citizens under the shadowy, top-secret Foreign Intelligence Surveillance Court. (Sections 101, 102 and 107)
- Shelter federal agents engaged in illegal surveillance without a court order from criminal prosecution if they are following orders of high Executive Branch officials. (Section 106)
- Authorise, in statute, the Department of Justice’s campaign of secret detentions by including a provision that would authorise secret arrests in immigration and other cases where the detained person is not criminally charged. (Section 201)
- Threaten public health by severely restricting access to crucial information about environmental health risks posed by facilities that use dangerous chemicals. (Section 202)
- Harm Americans’ ability to receive a fair trial by limiting defense attorneys from challenging the use of secret evidence in criminal cases. (Section 204)
- Reduce the ability of grand jury witnesses in terrorism investigations to defend themselves against public accusations by gagging them from discussing their testimony with the media or the general public. (Section 206)
- Allow for the sampling and cataloguing of innocent Americans’ genetic information without court order and without consent. (Sections 301-306)
- Permit, without any connection to anti-terrorism efforts, sensitive

17 See Kushner, supra 5 p. 288.
personal information about U.S. citizens to be shared with local and state law enforcement. (Section 311)

- Undercut trust between police departments and immigrant communities by sharing sensitive information with local police on a broad basis, without any connection to an anti-terrorism investigation. (Section 311)
- Terminate court-approved limits on police spying, which were initially put in place to prevent McCarthy-style law enforcement persecution based on political or religious affiliation. (Section 312)
- Provide an incentive for neighbours to spy on neighbours and pose problems similar to those inherent in Attorney General Ashcroft’s "Operation TIPS" by granting blanket immunity to businesses that phone in terrorism tips, even if their actions are taken with reckless disregard for the truth or invade the privacy of consumers. (Section 313)
- Under the pretext of fighting terrorism, unfairly target undocumented immigrants with extended jail terms for common immigration offenses. (Section 502)
- Provide for summary deportations without evidence of crime or criminal intent, even of lawful permanent residents, whom the Attorney General says are a threat to national security. (Section 503)
- Abolish fair hearings for lawful permanent residents convicted of even minor criminal offences through an "expedited removal" procedure, and prevent any court from questioning the government's unlawful actions by explicitly exempting these cases from habeas corpus. Congress has not exempted any person from habeas corpus -- a protection guaranteed by the Constitution -- since the Civil War. (Section 504)\(^{18}\)

The most alarming aspect of the religious extremists is the fact that they do not necessarily constrain their actions by using terror as a weapon to coerce or to propagandise for their causes. The new true believer, armed with the certainty of faith, may not be concerned with current public opinion or a change in the policy of an adversary. To them, being killed while undertaking

an act of terrorism may be a way to paradise in the next life. The image of the smiling truck bomber driving his vehicle into the Marine barracks in Beirut may be duplicated in a large urban centre. And the nightmare only becomes more horrific if such a perpetrator uses a nuclear device. While one does not want to overstate the threat, the strategic thinker must be willing to "think the unthinkable" so that appropriate responses may be conceived. In terms of legislation enacted to curb this growing menace, the US has taken a lead. However the outcome still remains to be seen i.e. whether the anti terror laws have achieved what they set out to do?

In certain cases the terrorists have been caught and punished under these laws but a large number of them remain outside the web of laws. Terrorism as a problem has come to stay and only enacting various laws is not the effective answer. These laws also are being misused and a number of innocent members of the public are caught within the folds. The U.S. itself provides a good example. Years after opening a detention camp at its naval base at Guantanamo Bay, Cuba, the United States continues to ignore international law in its treatment of the detainees. Since January 11, 2002, the U.S. government has sent over hundreds of people, including a number of children, picked up from around the world to Guantanamo. The public still does not know who the detainees are, what they have allegedly done, and whether and when they will be charged with crimes or released. There have been no hearings to determine the legal status of detainees and no judicial review—in short, no legal process at all. This American prison camp in Cuba breaches at least 15 Articles of the third Geneva Convention.

Although it is commendable the way the US Administration acted in a competent manner after 9/11, in the way it proceeded to track down the terrorists, mobilised international support in order to freeze their funds, intercept the communications, and to bring justice to those apprehended. But the US has over-reacted and exceeded the limits of good sense and legality in many respects. K.P. Fabian talks of two points. Firstly, the manner in which the people incarcerated at the Guantanamo Bay have been treated has tainted America's well-deserved reputation as an exemplary democracy
where the rule of law applies to all. The second is the assault on the liberties of ordinary Americans.\textsuperscript{19}

Therefore it is absolutely imperative that laws should not be misused. Misuse of laws serves the purpose of the terrorist who is in any case targeting the innocent public. So if terrorists as well as the protector i.e. the government both target the public the laws enacted are completely useless. We need to be careful of the quagmire that we would fall into if this is allowed to continue. If terrorism could be curbed by enactment of different laws, it would have been eradicated from this world today. The fact of the matter is that apart from legislating we also need to take care of proper implementation.

\textbf{Problem of Terrorism in United Kingdom}

Terrorism has historically been more of an internal problem for Britain than an international one until the recent July 7 attacks. Much of Britain's experience with terrorism and counter-terrorism has involved the struggle against nationalist revolutionaries in the heyday of the British Empire as well as in the intense period of decolonisation after 1945. Only with the revival of political violence in Northern Ireland after 1969 has Britain faced a serious domestic terrorist challenge.

The pre-history of Ireland includes cruel and selfish rule on behalf of a few English (absentee) landowners, mass starvation, anti-Catholic laws and practices etc. The invasion of the Romans in Britain from the beginning of the first century brought terror to this island and the Norman conquest of 1066 provoked similar atrocities. Two hundred years prior to this the Vikings plundered and terrorised the northern counties of Britain and Ireland.

Middle Eastern terrorism proved the most persistent variety of non-Irish International terrorism in Great Britain. Most of this was related directly to the Palestinian-Israeli conflict. Black September (the covert action arm of Al-Fatah) carried out a letter-bomb campaign against Jewish targets in England and Scotland. Abu Nidal's Fatah was one of the dissident Factions that attacked both Jewish/Israeli and Palestinian targets. In January 1978, they

assassinated the PLO representative in London and in June 1982, attempted to assassinate the Israeli ambassador.

The involvement of agents of particular states in support of or actual participation in political violence represented yet another strand of Middle Eastern terrorism in the UK. During the 1970s, Iraqi agents were suspected of attempting to assassinate several Iraqi dissidents in Britain.

In early 1980, Libyan leader Muammar Qaddafi warned Libyan exiles that they would face "revolutionary justice" if they did not return to Libya. Not long afterward, three Libyans were murdered in Great Britain. Libya also supplied large quantities of weapons to the Provisional Irish Republican Army (PIRA), and Libyan agents have been identified by Britain and the United States as the Perpetrators of the bombing of Pan Am Flight 103 in December 1998.20

The final strand of Middle Eastern terrorism in Great Britain arose from the milieu of Islamic fundamentalism. In 1989, tension heightened in Britain's Muslim community as controversy developed over publication of Salman Rushdie's *The Satanic Verses*. Along with large-scale demonstrations several bookshops were bombed. Five Arabs were arrested in May 1990 in connection with threats to kill Rushdie, and two were expelled. By mid-1990, twenty persons had been expelled from Britain since Khomeni issued the call for Rushdie's murder.21

No analysis of the British response to international terrorism would be complete without reference to the "Irish Dimension," since the conflict in Northern Ireland has influenced great Britain's response to terrorism in general.22

No Army has had greater experience of combating contemporary terrorism than that of the United Kingdom and no country has been so consistently outmanoeuvred. The post-First World War Irish insurrection exploited the war-weariness of the British and their unwillingness to employ mass terror.

Ireland has been inhabited for more than 9,000 years, but much is unknown of Ireland before Great Britain claimed Irish lands in 1172 AD. For the next 750 years, Great Britain ruled Ireland with a suffocating hand. In the middle of the 19th century, Ireland suffered a horrible potato famine, which led to wide scale emigration from Ireland. Many people in Ireland to this day blame England for not helping Ireland in their time of need. In the wake of the famine, many revolts attempting to liberate Ireland from Britain occurred, none, which were successful.

Irish Split: It wasn't until the latter stages of World War One when Great Britain initiated a conscription of Irish men for the war that a rebellion began that started the move towards Irish Independence. In April 1916, in what was called the Easter Rising, a small group of revolutionaries, led by Padraig Pearse and James Connolly, captured key sections of Dublin and proclaimed Irish Independence. The revolt was not that popular amongst the common people of Ireland, but when the revolt was crushed, and the British executed many of the leaders of the revolt, it turned the tide of acceptance and by 1918, Sinn Fein, the political party of the rebellion, had won a majority of the seats in the election. But instead of sitting in Great Britain, they formed an independent parliament in Ireland and declared Irish Independence. The Irish Republican Army (IRA) fought a guerrilla movement against Great Britain. The Anglo-Irish war was to last from 1919 to 1921 until a truce was called. This truce resulted in the Anglo-Irish treaty, which created a Free Irish State. But in this treaty was a provision that would allow Northern Ireland to break from the Free Irish State and reunite with Great Britain, which they did. In 1949 the Free Irish State formally declared itself the Republic of Ireland and left the British Commonwealth. This left Northern Ireland still being controlled by the British.

Northern Ireland: Northern Ireland is essentially made up of two groups: Unionists and Nationalists. Unionists are mostly Protestant and like Northern Ireland the way it is and Nationalists are mostly Catholic and want a United Ireland without British interference. The majority Unionists were in charge of the country and discriminated against the Nationalists. The Irish
Republican Army and other groups that splintered from the original IRA began the struggle for their independence from Britain in earnest in the late 60's.

**The Troubles:** January 30, 1972 a group of civil rights protestors in Dublin were shot and killed by British soldiers in an event dubbed, "Bloody Sunday." The British claimed they were fired upon, but testimony seems to disagree with that claim. Whatever caused the outbreak, the result was the people of Northern Ireland no longer trusted the British army. This was the beginning of what many people in the region called, "The Troubles." Paramilitary organisations killed between 3 and 4 thousand people, mostly civilians from the late 60's until the mid 90's when the Belfast Agreement was signed, calling a cease-fire to hostilities. Currently, under a cease-fire, both Britain and Northern Ireland are in negotiations to settle the dispute, but no agreement seems to be forthcoming in the near future.23

**Bloody Sunday:** January 30, 1972, a group of civil rights protestors marching in Derry, Northern Ireland in response to internments (People held in jail without due process of law) turned bloody when British soldiers, sent in to break up the protest, fired on the group, killing 13. While not considered a terrorist act, it is a tragic event that begat "The Troubles." An inquiry into the tragedy in 1974 found the British army to be without fault in the incident, but most people believed that to be a whitewash.

**Bloody Friday:** July 21, 1972 the Provisional Irish Republican Army, (PIRA, a more radical splinter group from the IRA which was now more political) planted 22 bombs around Belfast. Some of these bombs were defused, but others exploded, killing 9 and injuring 130. The PIRA officially apologised for those bombings in the 90's.

The chronology of events that took place in the history of terrorism perpetrated by the IRA is as follows.

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23 See Henderson, *supra* 6, pp. 31-34.
1971: Three British soldiers killed in a bomb attack in Belfast. A Catholic mother of ten is kidnapped and killed by the PIRA for supposedly giving information to Britain.

1974: A bomb explodes on a train carrying British military personnel and their families. 9 soldiers, a wife and two kids die. The Guilford and Birmingham Pub Bombings, where bombs in pubs kill 24 and injures nearly 200, effect a quick arrest of the Birmingham Six, who are found guilty and sent to jail. It is later discovered that evidence was fabricated and the Birmingham Six are released. The real bombers are arrested the next year.

1976: A bomb planted by the PIRA kills the newly appointed British Ambassador to the Republic of Ireland.

1979: The PIRA explodes a bomb that kills Earl Mountbatten of Burma, the British Queen's first cousin. On the same day, in a guerrilla attack in Narrow Water, the PIRA kills 18 British soldiers.


1982: July 20th, Hyde Park bombing kills two calvary men and seven horses, while in Regents Park on the same day, seven members of the band, "Royal Green Jackets", are killed when a bomb explodes under the stage.

1983: A bomb planted by the PIRA in Harrods' department store during Christmas season kills three policeman, three civilians and injures 90 others.

1984: A Brighton Hotel bombing kills five in a failed assassination attempt of British Prime Minister Margaret Thatcher.

1987: Called the "Enniskillen Massacre", the PIRA bombs a Remembrance Day parade killing 11 and injuring more than 60.

1989: Ten Royal Marine band members are killed and 22 wounded in a bombing at their base in Kent.

1990: Car bombings kill 7 and injure 37 in Northern Ireland during the year.

1991: Victoria Station bombing kills one and injures 38. Two PIRA members are killed when their bomb detonates while being placed.

1992: February 28th, a bomb explodes at the London Bridge railway station, injuring 29. April 10, a large bomb is detonated in London, killing three and injuring 91. The Baltic Exchange, a freight futures and freight price exchange, is completely destroyed in the explosion. 8 builders on their way to work at a military base in Omagh are killed by a bomb.
1993: A bomb planted by the PIRA in Warrington kills two children. A truck bomb in London explodes killing two and causing almost half a billion dollars in damage. A bomb explodes prematurely in a fish and chips restaurant, killing the bomber and ten others, including two children.24

The most prominent terror events in the UK would probably be the bombing of London and other major cities by the Luftwaffe during WW2 and the IRA bombings in London and Birmingham as well as Northern Ireland from 1970 to the late nineties.25

In 1994 hopes for peace were raised when the IRA declared a cease-fire. Its legal political arm (Sinn Féin) began participating in talks with Britain in 1995, but the party was barred from the mid-1996 negotiations because of renewed terrorist bombings by the IRA. Following the IRA’s announcement of a new cease-fire in July, 1997, Sinn Féin was allowed to participate in talks that convened in September of that year and resulted in an accord (Apr., 1998) that provided for a new Northern Ireland Assembly comprised of Protestants and Catholics, and greater co-operation between Northern Ireland and the Irish Republic. Full implementation of the accord snagged for several months on the issue of IRA disarmament, but representatives of Sinn Féin participated in the new Northern Irish government established in Dec., 1999. Britain suspended the new government in 2000 and again in 2001 over the IRA’s refusal to agree to disarm, but in Oct. 2001, the IRA began disarming, albeit in secret. A number of incidents in 2002 that indicated the IRA had not abandoned paramilitary activity again led to the suspension of home rule.26 Two large bank heists in 2004 have been attributed to the PIRA.

Recently London was rudely awakened to bomb blasts which ripped through London’s famous underground train system. It was on 7 July 2005 that a series of four bomb attacks struck London’s public transport system during the morning rush hour. At 8:50 a.m., three bombs exploded within 50 seconds of each other on three London underground trains. The bombs were

detonated between Aldgate and Liverpool Street stations, between Rusell Square and King’s Cross stations and at Edgware Road station. A fourth bomb exploded on a bus at 9:47 a.m. in Travistock Square. Fifty six people were killed in the attacks, including four suspected bombers, with 700 injured. The incident was the deadliest single act of terrorism in the United Kingdom since the 1988 bombing of Pan Am Flight 103.

**National Security Laws**

Owing to the nearly world-wide dimensions of the threat posed by terrorism, many states have recourse, should that be requisite, to anti-terrorist legislation and other counter-terrorist measures. The United Kingdom has a long history of specific anti-terrorism legislation, most recently the Terrorism Act 2000.

There are various legislative provisions that have been enacted to come to grips with the menace of terrorism. Legislation in the United Kingdom has been made more and more stringent over the years. When the laws enacted in the early nineteen seventies were found to be unequal to the task, a new law was passed in the year 2000, and this British law is even more stringent than the recent Indian Act, The Prevention of Terrorism Act, 2002 (POTA).

Paul Wilkinson identifies the key features of British anti-terrorism policy as:

1. “a firm political will to uphold the rule of law and democratic government and to defeat terrorism”;  
2. “absolute refusal to surrender to terrorist extortion and demands”;  
3. “determination to act in accord with domestic and international law”;  
4. “treatment of convicted terrorists as common criminals with no special privileges, pardons or amnesty”; and  
5. “the promotion of national and international measures to combat terrorists by minimising their rewards and maximising their losses.”

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The origins of extraordinary legislation to contain terrorism and other acts of violence directed against the state in Northern Ireland go back to the events of 1921, which witnessed the splintering of Ireland, the creation of the Irish Free State from twenty-six of the thirty-two counties that comprised Ireland, and the political union of six counties in Northern Ireland with England, Scotland, and Wales. To minimise the effects of the ensuing civil war, waged primarily between the forces of the Irish Free State and Irish nationalists seeking to undo the partition of Ireland, or (to put it another way) the political union of Northern Ireland with Great Britain, the Civil Authorities (Special Powers) Acts were brought into force. These remained in effect from 1922 to 1940; in 1939, at the outbreak of World War II, a war in which the Irish Free State proclaimed its neutrality, the Prevention of Terrorism (Temporary Provisions) Act was passed, and once it was clear that this legislation would suffice to meet the threat of separatist violence, the Special Powers Acts were allowed to lapse. In the Republic of Ireland, which succeeded the Irish Free State in 1937, terrorism posed no grave problems as it did in neighbouring Northern Ireland. However, terrorists from Northern Ireland sought refuge in the Republic, and the violence in the north often threatened to spill over into the south. It is for this reason that a comprehensive set of measures designed to deal with terrorism, of which the Offences Against the State Acts constitute a major portion, were etched into the permanent law of the land in 1939.

The more recent history of anti-terrorist legislation designed to alleviate the problem that terrorism in Northern Ireland poses for Britain shows a marked similarity to the history of previous legislative attempts. No sooner had the Prevention of Terrorism (Temporary Provisions) Bill been introduced in Parliament on 19 July 1939 than IRA violence saw a dramatic upsurge: a hundred explosions took place over the next nine days, and this no doubt hastened the passage of the legislation, which secured the royal assent on July 28. By 1940 IRA violence had " petered out", but the Act remained in force until 1954. As one recent study of The Prevention of Terrorism Acts puts it, "the emergency had lasted approximately one year; the Act had lingered for just over fifteen -- a tour de force in legislative indulgence." The legislation,
which was intended to enable the authorities to curb the violence with more effective powers at their command, may have precipitated the violence. 28

In 1972, following the prorogation of the Northern Ireland parliament and the imposition of direct rule from Westminster, the UK government appointed a committee under the chairmanship of eminent jurist Lord Diplock to consider “what arrangements for the administration of justice in Northern Ireland could be made to deal more effectively with terrorist organisations”. Diplock found that the main obstacle to dealing with terrorists in ordinary courts was the intimidation of jurors and witnesses by terrorist organisations.

His principal recommendations were embodied in the first real law passed by the UK to deal specifically with terrorism, outside the purview of ordinary criminal law. It was called the Northern Ireland (Emergency Provisions) Act 1973, and under it

- All terrorist type offences were categorised as “scheduled offences”
- Trial of scheduled offences were to be carried out by a senior judge, sitting alone
- Bail in scheduled cases was to be given by the High Court and that, too, only if stringent precautions were made
- Arrest without warrant was allowed and the period of detention by the police of a person suspected of being a terrorist was extended to 72 hours, from the usual 48 hours.
- The army was allowed to arrest and detain a suspect up to four hours.
- The normal onus of proof – which is on the detaining authority – is reversed in cases involving the possession of arms and explosives
  - Supremacy to the executive over criminal law: Detention orders can be made by the secretary of state on the basis of information which security forces believed to be valid, whereas conviction for offences under normal criminal law is on the basis of evidence tested in court. 29

This extraordinary legislation was followed in 1974 by an Act called the Prevention of Terrorism (Temporary Provisions) Act. Under this Act, the Home Secretary was given special powers:

1. To exclude from the United Kingdom, without court proceedings, persons “concerned with the commission, preparation, or instigation of acts of terrorism; and,
2. To detain a suspect for up to seven days without bringing him to court (after his arrest by policemen without a warrant, as allowed under the Emergency Provisions Act).

This act also allowed the prohibition in the United Kingdom of organisations considered to be concerned with terrorism.30

The Prevention of Terrorism (Temporary provisions) Act 1974 (PTA), introduced in November 1974 and since superseded by new legislation in 1976, 1984, and 1989, is the sole piece of “emergency” legislation introduced in Great Britain in response to terrorism in the mainland UK. Beyond this, law enforcement officials rely on the ordinary criminal law. The PTA introduced extended powers of arrest and detention, forcible removal (exclusion) of suspected terrorists from Great Britain, proscription of organisations, and several new offences relating to support for terrorists. But the British government specifically rejected proposals to create and offence of terrorism itself.31

The Prevention of Terrorism (Temporary Provisions) Act in 1974 appears to embody a different causal relationship, for this reincarnation of the legislation can be directly attributed to two bomb explosions in Birmingham on November 21 of that year which left 21 people dead and 184 injured. Introducing the legislation in the House of Commons on November 25, the Home Secretary admitted that “the powers” that the Act proposed to confirm upon the police and the judiciary “are Draconian. In combination they are unprecedented in peacetime.” He felt nonetheless that such powers were “fully justified to meet the clear and present danger”. As in 1939, and here the histories most emphatically merge, the legislation was secured within a matter of days, virtually without either amendment or dissent. Despite the purportedly

"temporary" nature of the Act, it was superseded by a new Act in 1976. In 1982, as a consequence of vociferous demand by the opposition, a review of the Act was carried out by Lord Jellicoe. A former head of the secret National Security Commission and one-time member of the elite Secret Armed Services, Jellicoe was scarcely likely to suggest that the government be divested of its powers, but even he was constrained to advise that the phrase "Temporary Provisions" be "removed from the title of the Act" as it "rings increasingly hollow". Only in this respect was Jellicoe’s advice not followed: a new Prevention of Terrorism (Temporary Provisions) Act came into force in 1984 and given a life of five years, subject to annual renewal. In 1989, to make the story complete, the act was again amended, and the following year it was renewed by a Parliamentary vote of 227 to 136.

Although it is true that the passage of the Prevention of Terrorism (Temporary Provisions) Acts of 1974 and 1976 led to a decline in the number of terrorist-related incidents, acts of political violence were thereafter more carefully orchestrated. The transformation of the Metropolitan Police Bomb Squad, first established in 1971, into the Anti-terrorist Squad in 1976 indicates that the threat of terrorism could not be contained by the legislation of 1974. Indeed, between 1971 and 1984, when a new act came into being, terrorist-related incidents in Northern Ireland remained extravagantly high: 30,000 shootings, 7,831 explosions, 2,372 deaths, and almost 25,000 injuries.

Originally formulated to apply solely to those connected with Irish terrorism in Great Britain, the powers of arrest and detention (part II, section 12) were extended in the 1984 act to apply to other international terrorists. The 1984 act also widened the ambit of sections 10 and 11 of part I (which created new offences relating to support of terrorism in general). These sections were revised to apply to the support of Irish terrorism anywhere in the world, not just the UK.\textsuperscript{32}

In further criticism of the Prevention of Terrorism Act, it can be said that it partakes of yet another kind of "legislative indulgence". Under the Northern Ireland (Emergency Provisions) Act [EPA] of 1973, the government already

\textsuperscript{31} See Charters, supra 9, p. 19.
had available to it those very powers of preventive detention, summary arrest, and search without warrant with which it was subsequently empowered by the Prevention of Terrorism Act [PTA]. It has been argued that while the EPA is applicable to Northern Ireland, the PTA is directed primarily at terrorism in Great Britain; however, this obfuscates not only the significant overlapping between the two pieces of legislation, but also the consideration that the chief difference between the two resides in the fact that the EPA allows a greater license to the authorities than does the PTA, partly on the supposition that Britain with its allegedly great tradition of liberalism would never allow its subjects to be subjected to draconian laws. Nor are EPA and PTA the only relevant pieces of legislation: The Immigration Act (1971) gave the government additional powers to prohibit the entry of suspected terrorists into the United Kingdom and likewise to exclude suspects. What justification could there have been then for the passage of legislation like the PTA which perhaps violated the fundamental postulate that new legislation is warranted only when there is demonstrable need? More significantly, we must consider that, as a consequence of the various Prevention of Terrorism Acts, what was once considered exceptional has come to be viewed as 'normal'. As one member of Parliament put it in the House of Commons debate on Lord Jellicoe's "review" of the Prevention of Terrorism Act, "the power to detain suspects for seven days, which produced a shock on both sides of the House in 1974, now hardly causes an eyelid to flutter." He spoke of the "insidious circular process in which draconian laws soften us up for similar laws which become the desired standard for further measures". The presence of extraordinary legislation, particularly over an extended period of time, not only weakens the normal law of the land, it also inures a people to the acceptance of vast powers that no democratic state should be allowed to wield with impunity. Does such legislation create conditions that, in the long run, are destructive of the fabric of a democracy, and are other options indeed foreclosed by the state's assumption of extraordinary and "draconian" powers?33

33 See Lal, supra 28
Political violence connected with Northern Ireland is now significantly reduced. The response of the government was not to wind down emergency legislation but, rather, to introduce a single, permanent, anti-terrorist statute of general application. The Terrorism Act 2000 continues a regime of special powers but these powers are explicitly not confined to Northern Ireland. They apply to both international and domestic terrorism. The 2000 Act is permanent and not subject to annual re-enactment or review. The Home Secretary must, however, make an annual report to Parliament on its workings.34

Religious based international terrorism was identified as one of the threats justifying the provisions of the 2000 Act. Following the 11 September attacks, however, the government enacted the Anti-terrorism, Crime and Security Act 2001. This Act is controversial for two reasons. Firstly, it contains some severe anti-terrorist powers, which may be disproportionate to the actual threat facing the United Kingdom. Secondly, it contains many provisions that increase the general powers of the police and other state agencies but with no restraints increase powers are confined to anti-terrorism activities.35

Mr Zander says: "The Anti-terrorism, Crime and Security Act 2001 passed in the aftermath of 9/11 set aside habeas corpus in regard to terrorism suspects who cannot be prosecuted. The Prevention of Terrorism Bill now before Parliament would broaden the ways in which terrorism suspects can be dealt with without being charged or prosecuted."36 The Terrorism Act 2000 and the Anti-terrorism Crime and Security Act 2001 are major pieces of legislation and only some of the issues can be dealt with here.

**Definition of terrorism**

Section 1 of the Terrorism Act 2000 contains the definition of terrorism to which the other provisions of the Act relate. The definition has two strands involving the use or threat of action. First, action must be undertaken to achieve a certain kind of objective.

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34 Section 126, Terrorism Act 2000.
1(1) (b) the use or threat is designed to influence the government or to intimidate the public or a section of the public, and
(c) the use or threat is made for the purpose of advancing a political, religious or ideological cause.

The second strand relates to the consequences of the action.

1(2) Action falls within this subsection if it-
(a) involves serious violence against a person,
(b) involves serious damage to property,
(c) endangers a person’s life, other than that of the person committing the action,
(d) creates a serious risk to the health or safety of the public or a section of the public, or
(e) is designed seriously to interfere with or seriously to disrupt an electronic system

The definition is restricted as it includes only ‘serious’ violence. It includes serious damage to property; yet it is by no means clear that damage to property, which raises different moral issues from violence, warrants special powers in addition to the general law. ‘Serious’ is not defined. It is not at all clear that damaging war planes or uprooting genetically modified crops or even burning down an empty animal laboratory, etc. is sufficiently similar to bombing a public place as to justify the application of these powers.

The Terrorism Act 2000 provides the basic framework. It allows for the proscription of organisations, creates offences relating to the use of property for terrorist purposes and permits confiscation and forfeiture of such property; it increases the powers of the police in respect of the investigation of terrorist offences and the actions that may be taken against terrorist suspects; it increases police powers in respect of port and border controls, and it creates a range of offences connected with acts of terrorism both at home and overseas.

Offences under the Act have to be proved by the prosecution with evidence establishing the case beyond reasonable doubt. However, for some offences the, the law allows assumptions to be made by the court. Then the burden passes to the defendant to prove that this assumption is false. Example of such a situation is that the possession of an article for terrorist
purposes can be assumed if it is proved that the article was on premises at
the same time as the accused.37 Putting the burden or onus on the defendant
is known as 'reverse onus' defence.

Proscription

Section 3 of the Terrorism Act 2000 gives powers to the Secretary of
State to proscribe or ban certain terrorist organisations which he or she
believes to be 'concerned in' terrorism. 'Concerned in' is a very broad
concept. The meaning given to it is:

An organisation is concerned in terrorism if it –
(a) commits or participates in acts of terrorism,
(b) prepares for terrorism,
(c) promotes or encourages terrorism, or
(d) is otherwise concerned in terrorism.

'Otherwise concerned in terrorism' is a vague and an uncertain phrase.
Schedule 2 of the Act identifies 14 or organisations involved in Northern
Ireland politics, which were proscribed. The Secretary of State may add to or
remove organisations from the list. In March 2000 the home Secretary added
21 more organisations. They included the Al-Qaeda and other Islamic groups.
The Act also provides for the process of 'deproscription'. A proscribed
organisation can apply to the Secretary of State and if that is turned down, it
can appeal to the Proscribed Organisations Appeal Commission.38

Offences involving proscribed organisations

Sections 11-13 create a range of offences which apply only in respect
of proscribed organisations. Firstly it is an offence to belong to profess to
belong to a proscribed organisation. Secondly it is an offence to invite support
for a proscribed organisation generally or by specific activities such as
organising or addressing meetings. Thirdly, it is an offence to wear clothing or
display articles 'in such a way or in such circumstances as to arouse
reasonable suspicion that he is a member or supporter of a proscribed
organisation'.

37 Terrorism Act 2000, s. 57.
Proscription is central to the British attempt at fighting militancy. Membership of a proscribed organisation, support to a proscribed organisation (direct or indirect) even displaying an article that could “arouse reasonable suspicion” in a policeman that the bearer is a terrorist, is punishable from anywhere between six months to ten years. So broad is the sweep of this particular clause of the Terrorism Act that in the UK today, even a person who attends a meeting which a member of a proscribed organisation has addressed, can be arrested. Therefore the power to proscribe has been associated with fears that it infringes on the rights of association and expression.

Terrorist offences
The Terrorism Act 2000 creates a range of new terrorist offences. Giving or receiving weapons training, such as in the use of firearms or explosives, is an offence under section 54. This definition of the offence makes no reference to terrorism so on the face of it, it seems that the offence can even be committed by those using weapons and explosives for policing or commercial purposes. Further directing a terrorist organisation, at any level, is an offence under section 56. This is not confined to proscribed organisations. Possession of an article in circumstances, which give rise to a reasonable suspicion of a connection with terrorism, is an offence under section 57. Section 57(3) allows the court to assume that the defendant was in possession of the article if it was on premises at the same time as the accused or if he was the occupier or a habitual user of the premises.

International terrorism
After the September 11 attacks, the international nature of terrorism has been recognised. The Terrorism Act 2000 increases port and border controls. These include wide powers for designated officials to stop, detain and question anyone entering the United Kingdom in order to discover whether they are connected with terrorism. An offence of inciting acts of
terrorism overseas is created by section 59 of the Act. The essence of the offence is the incitement of an act overseas, which is within the definition of terrorism in section 1 of the Act and also a serious offence such as murder. The home Secretary may deport someone, who is not a citizen, on the grounds that their presence in the United Kingdom is not conclusive to the public good.41

Deportation

The Anti-terrorism, Crime and Security Act 2001 permits the detention without trial of non-citizens, mainly when they would otherwise be subject to deportation on national security grounds. In Chahal v United Kingdom42 the Court of Human Rights confirmed that it violated Article 3 ECHR to deport a person to a country in which they might suffer torture or inhuman or degrading treatment or punishment even though the country to which they are deported is not a signatory of the ECHR.

Detention without trial

The Anti-terrorism, Crime and Security Act 2001, Part IV, permits the Secretary of State to issue a certificate to the effect that a person’s presence in the United Kingdom is a risk to national security and that the person is a terrorist, as defined by the Terrorism Act 2000. If the person cannot be deported because of a ‘point of law relating to an international agreement’ (i.e. because they might suffer torture etc.) or because of a ‘practical consideration’ then, under section 23 of the Anti-terrorism Act, the person can be detained indefinitely pending deportation. This legislation is highly controversial, as detention without trial is not a principle of justice.

Investigation of terrorist offences

Parts IV and V of the Terrorism Act 2000 increase the powers of the police over the investigation of terrorist offences. These powers are over and above police officers’ ordinary powers in the Police and Criminal Evidence Act

40 Amnesty International, UK: Briefing on the Terrorism Bill www.amnesty.org/ai.nsf/index/EUR45043200
41 Immigration Act 1971, s. 3(5)(a).
1984. Part IV identifies major police powers, which are triggered in respect of a ‘terrorist investigation’. The term is defined in section 32.

**Terrorist investigation**

32 In this Act ‘terrorist investigation’ means an investigation of—

(a) the commission, preparation or instigation of acts of terrorism,

(b) an act which appears to have been done for the purposes of terrorism,

(c) the resources of a proscribed organisation,

(d) the possibility of making an order under section 3(3) [a proscription order] or

(e) the commission, preparation or instigation of an offence under this Act.

The scope of a terrorist investigation is likely to be wider, less confined by the definition of any particular crime, than an ordinary criminal investigation. For example, section 32(b), requires only the appearance of a terrorist act. The section makes no reference to the degree of evidence necessary to ground such an appearance or whether it is an objective matter or simply based on the good faith and judgement of a police officer.

Sections 33-36 and section 37 allow the police to cordon off an area and exercise certain powers within it.\(^{43}\) This can be done if a senior police officer, or in an emergency any police officer, considers it ‘expedient for the purposes of a terrorist investigation’. A cordon can, with renewals last for 28 days. The cordon permits the police to order people and drivers to leave an area and to restrict access to it by pedestrians and vehicles. Even in the absence of a cordon, the police have the power to stop and search drivers and pedestrians in order to look for ‘articles connected with terrorism’.

Under section 37 and Schedule 5 of the Terrorism Act 2000, a ‘terrorist investigation’ authorises the police to seek a warrant, from a magistrate, to enter and search premises for material that will be of substantial value to a

\(^{42}\) (1997) 23 EHRR 413.

\(^{43}\) Sections 48-52 of the Terrorism Act 2000 allow the police to prohibit car parking in certain areas if this is considered expedient to prevent terrorism.
‘terrorist investigation’ and seize it in order to prevent it being ‘concealed, lost, damaged, altered or destroyed’.

**Suspected terrorists**

Where a person is suspected on reasonable grounds of involvement in terrorism, the Terrorism Act 2000 has significantly increased the powers of the police to arrest and detain persons and search premises. Section 40 defines a terrorist for the purposes of the Act.

**Terrorist**

*40 (1)* In this Part ‘terrorist’ means a person who –

(a) has committed an offence under any of sections 11, 12, 15 to 18, 54 and 56 to 63, or

(b) is or has been concerned in the commission, preparation or instigation of acts of terrorism.

(2) The reference in subsection (1)(b) to a person who has been concerned in the commission, preparation or instigation of acts of terrorism includes a reference to a person who has been, whether before or after the passing of this Act, concerned in the commission, preparation or instigation of acts of terrorism within the meaning given by section 1.

This definition includes most of the offences created by the Terrorism Act 2000. It extends to actions of commission, preparation and instigation of terrorism even though these may be outside the normal relationship of proximity required for the offences of conspiracy or incitement.

**Arrest and detention**

Section 41 permits arrest without warrant of a person against whom there is reasonable suspicion that he or she is a terrorist. The arrest can be to obtain information about matters of which the person is believed to have knowledge. The detention under this section is for a maximum of 48 hours although it can be extended up to seven days. The reason behind expanding the powers of arrest for the police is to enhance the pre-emptive element in combating terrorism. In other words, the police are given an opportunity to act
against suspects under surveillance instead of waiting for the surveillance to reach fruition before actually carrying out the arrest. This power of pre-emptive arrest lends itself to indiscriminate use and can be misused by the police.

The arrest of a person under section 41 brings the rights and duties found under schedule 8 into effect. The schedule deals with matters such as place of detention, tape recording and videoing of interviews, fingerprinting and so on. The complex powers such as fingerprinting have been enhanced under the Anti-terrorism, Crime and Security Act 2001.

Disclosure offences and media freedom

The definition of terrorism, terrorist actions and the state response to terrorism are politically charged matters. State responses to terrorism are likely to diminish, or at least threaten, the political and private liberties of citizens, and there will be claims that the authorities should be given a free hand and that opposition is in some way wrong and tolerant of violence. In this context there is a 'watchdog role for the media and for serious investigative and critical journalism. At the same time the authorities are entitled to take measures, proportionate to the risk, to deny groups that might be planning atrocities against civilians access to information that could be helpful to them.44

The Terrorism Act 2000 includes offences relating to the disclosure of information. Section 19 of the Terrorism Act 2000 makes it an offence to fail to inform the police of a suspicion that a person has committed one of the offences relating to terrorist property in Part III of the Act (e.g. fund-raising and money laundering). Lawyers need not disclose matters subject to legal privilege. Information concerning terrorism can be disclosed even if other statutes, such as the Data Protection Act 1998, might otherwise be broken.45

Section 39 of the Terrorism Act 2000 makes it an offence to disclose to another that a terrorist investigation is taking place if to do so would be likely to prejudice the investigation or create an interference with material likely to be relevant to the investigation.

Section 58 makes the collecting or recording of information useful to terrorists, or possessing a document or record with such information on it, an offence. This offence has clear implications for journalists, academics and others who may be investigating terrorist activity.

British Prime Minister Tony Blair’s government finally pushed a controversial new anti-terror law through parliament on the 12th of March, 2005 following a two-day, round-the-clock debate, after offering a key concession. The Prevention of Terrorism Bill was approved by the House of Lords, bringing the curtain down on 31 hours of straight debate in the upper chamber of parliament, one of the longest in its history. The Lords had repeatedly tried to change the law, which lets terror suspects be subjected to so-called “control orders” including limited house arrest, to make it automatically expire within a year with a so-called “sunset clause.”

The antiterrorist law voted by parliament in December 2001 is not in accordance with the European Convention of human rights. It does for example enable prolonged detention of foreign citizens without any investigation going on. It is a breach of fundamental public liberties.

Concluding Remarks

Abraham Lincoln has said, "Every man thinks he has a right to live and every government thinks it has the right to live. Every man when driven to the wall by a murderous assailant will override all laws to protect himself, and this is called the great right of self-defence. So every government when driven to the wall by a rebellion will trample down a constitution before it will allow itself to be destroyed. This may not be constitutional law but it is a fact."

The enactment of these ant-terrorism laws, by both the United States and the United Kingdom have had a serious impact on the civil liberties of the citizens of these two countries. The regimes in their anti-terrorist campaign have become illiberal and intolerant. Intolerance and discrimination has increased. In a way, the response to the terrorist attacks around the globe has made global respect for civil liberties considerably worse.

45 Section 20, Terrorism Act 2000.
The British experience with the Irish resistance, which has been on for over two hundred years, has made the British anti-terrorism laws even more stringent over a period of time. London was targeted by the terrorists of the modern world non 7th July, which again carried with it the shock factor. The previous laws have in a sense failed and the outcome is that the government comes up with tougher measures.

As far as the United States is concerned, their experience with terrorism in the form of the September 11 attacks have woken them out of their dreamworld slumber. They have been snapped out of their false sense of security. Their interest in the subject of terrorism has been revived and the USA Patriot Act, which is a detailed document, lies before us.

It is in fact principally through legislation that the threat to terrorism has been sought to be minimised, in various countries. Democracies purportedly have an intrinsic relationship to the 'rule of law', and legislation appears to be the most consistent and least oppressive of all the measures that democracies can employ to secure themselves against threats internal and external.

Our interest in controlling terrorism whether through legislation or otherwise, has been sporadic and inconsistent and it dies down soon after the shock effect of a terrorist strike has subsided. The problem with most anti-terrorism laws is that they are misused. They are draconian because they end up targeting the innocent public. Anti-terrorism laws will always be controversial but it ultimately depends on us to make them workable.