

TERRORISM AND THE LAW

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APPOINTMENT AS INDEPENDENT REVIEWER

1. A little over five years ago now I was working in Chambers on the sort of thing that had occupied me for more than 20 years: the preparation of a case involving some fascinating but now-forgotten question of European law.
2. The phone rang. My clerk informed me that the Home Office wanted an urgent word on a new matter. This gave me no pleasure. I had heard nothing from the Home Office since I had offered them some unwelcome advice late in the last century, and had never expected to hear from them again. More to the point, I was busy.
3. My clerk persisted. "It's only a short point Mr Anderson. No papers. No written opinion. And they are sitting downstairs waiting to see you."
4. That was unusual. And the case I was working on, though pressing, was if I am honest, a little dull. I agreed to see them, and there ensued my first exposure to the art of subterfuge as practised by those fine people whose task it is to keep us safe.
5. Three men parked their raincoats and were shown into the conference room. They introduced each other by impressively secret-sounding titles, then told me that the Home Secretary, of whom I knew nothing that I had not read in the papers, wished me to accept appointment to the part-time role of Independent Reviewer of Terrorism Legislation. They seemed not to mind that my only experience of the terrorism laws was representing Mr Kadi, whom the British government believed to be a former associate of Osama bin Laden, in an attempt to get his assets unfrozen by the European Court of Justice.

6. I had only the haziest impression of what this job required. Indeed if I am honest, I may not even have known that it existed. But it sounded interesting. Reflecting that one of the most enjoyable episodes of my professional life till then had been a spell monitoring human rights for the Council of Europe in Turkey and the former Soviet Union; and hoping that the new post might offer interest of a similar, if slightly less dramatic kind; I accepted.

DIFFERENCES FROM LEGAL PRACTICE

7. There then began my induction into activity more time-consuming, and more different from practice, than I had imagined.
8. There was the **security clearance**, including a 4-hour interrogation by a retired Chief Constable. A colleague with experience, in more senses than one, had advised me that the questions were “*mostly about affairs*”. Not so in my case: but instead, a mystifying series of questions about views I had expressed in the past on an Ipswich Town supporters’ website, sadly but aptly named Those Were The Days. All was explained, as my interrogator accompanied me to the exit, by the most discreet of hints that he was himself a Tractor Boy.
9. There was the handing over of the **key to my room** in the secret bit of the Home Office – a place that I visit to read secret documents and meet secret people, and a rare privilege in a setting where others hot-desk without even a cubicle for privacy.
10. And there was a process of **acclimatisation** to things which I had had little opportunity to experience in my admittedly rather sheltered practice. I will mention two of the biggest differences.
11. **First**, there were the **encounters with people** very much more various than the berobed and besuited figures that I was used to meeting.
 - a. Drinking instant coffee with Abu Qatada and his sons, in the house which the Home Office had rather oddly provided for them in the North London district of Stanmore, home to England’s largest Jewish community.
 - b. Patrolling South Armagh with officers who, despite the continuing threat to their lives, were happy and proud that their job can now be done in a bullet-proof vest and armoured police vehicle rather than from a helicopter.

- c. Visiting a prison in Algiers and seeing several hundred inmates seated at children's desks and writing exams, which they were incentivised to pass by the offer of a 10% reduction in their sentence – what a fine idea.
- d. Discussing the evils of the surveillance state by the ponytailed privacy advocates of San Francisco, as we munched on a bucket of donuts in a scene that could have come straight out of *The Simpsons*.
- e. Listening to charities complain that their attempts to get water purification tablets into Gaza, or famine relief into Somalia, or even to bring Sinhalese and Tamils round a table in London, were being frustrated by laws against material support for terrorism.
- f. Most incongruously of all, perhaps, on a visit to Southwark Police Station to check on the welfare of a young man recently returned from a Syrian war zone, talking him at his request through the second half of the previous evening's friendly international which I happened to have seen but he, through force of circumstances, had not. That a suspected jihadi fighter should also be a mad keen England fan will not perhaps be a shock to anyone who inhabits the criminal courts. There we learn, if nothing else, that human nature is infinitely various and perpetually surprising.

12. The **second** big difference was the need to have, and to express, ***opinions of my own***. Here my predecessor Lord Carlile, experienced in politics as well as in law, had created expectations which I was ill-prepared to fulfil, being accustomed in my lawyerly way only to acting on *instructions*, citing *precedents*, relying on the *evidence* of others and making *submissions* to courts – the habits of a professional world in which the public expression of one's own opinions is the faux pas of a naïve beginner.

13. How do young people become radicalised? Should terrorist detainees be offered nicotine patches? How many stars would you award this Bill? Do kneecappings count as terrorism? In one word, Mr Anderson: Edward Snowden - hero or villain? Such questions are fired at me not only by journalists, but by members of

parliamentary committees whose interrogations may not always have the laser-like focus that we associate with the Court of Appeal, but who amply compensate with the range and unpredictability of their interests, and their instinct for an exchange that might be of interest to the media.

WHY DO WE NEED SPECIAL LAWS ON TERRORISM?

14. The work involves looking at a range of topics: recently, deportation, citizenship deprivation, investigatory powers. But at the centre of the role – as its name suggests – is terrorism legislation.
15. Do we really need special laws for this? You could look at terrorism as nothing more than a form of violent crime – indeed one of the less common forms. Many developed countries – Canada, Australia – had no anti-terrorism laws before 9/11; and even the UK, with its long and difficult history in Northern Ireland, waited until the year 2000 before enacting our first *permanent* anti-terrorism law, following the report of the Law Lord, Lord Lloyd.
16. There is a case against special laws for this particular variety of crime, which goes something like this.
 - a. There have been only two terrorist murders in Great Britain in the past 10 years. And however shocking the deaths of Mohammed Saleem and Private Lee Rigby, both in the spring of 2013, they were neither the first nor the last people to be killed on the streets of Britain that year. According to the Office for National Statistics, there were 185 other homicides involving a knife or sharp instrument in 2013. And in both cases the assailants – Lapshyn, Adebolajo and Adebolawe – were convicted not of any special terrorism offence, but of murder.
 - b. The recent toll in Northern Ireland has been greater: 26 deaths related to the security situation over the past 10 years. But it is the ordinary law, including firearms and explosives offences, which is used to punish such activity: and against the background of the Troubles, which saw 3,500 deaths over the 30 years to 1998, the progress towards normalisation – though distinctly bumpy – is unmistakable.

- c. Factor in the 7/7 attacks of 2005, with their 52 deaths and 700 other casualties, and the picture darkens. Madrid in 2004 and Paris in 2015 saw greater tolls still. But the criminal law is designed for crimes of all kinds, and at every scale. In any bidding war for special laws, should we should not be at least as concerned, for example, about the seven women who are killed by current or former partners every month of every year?
- d. And of course, the more we treat terrorism as uniquely grave, the more we play into the hands of its perpetrators. Terrorism stands for everything that is extreme, dangerous, frightening and secret – qualities which render it glamorous not just to supermarket workers in the West Midlands or smugglers of diesel in Northern Ireland, but to all who associate with it, whether in Government, law enforcement or industry. Fanning the flames with particular vigour are the media, who evoke *fear* to achieve *attention*, thus serving the interests of the terrorist who needs attention if he is to promote fear.
- e. Thus one arrives at the well-known words of Lord Hoffmann, in the Belmarsh detention case A: *“The real threat to the life of the nation, in the sense of a people living in accordance with its traditional laws and political values, comes not from terrorism but from laws such as these.”*

17. That is the case against a special terrorist code. And yet there *is* something special about terrorism.

- a. In its classical form, it strikes not just at its immediate target but at the heart of the *values we stand for*. Recently we have seen people killed close to our own shores for satirising religion, for debating free speech, for celebrating music, and simply for being Jewish or for happening to find themselves near the political heart of Europe.
- b. It is expressly aimed at *dividing societies*: that is why dissident republicans target hotels where the Police Service of Northern Ireland recruits Catholic officers?

- c. And at *destroying economies and regimes*, for example by the attacks on holidaymakers in Tunisia and a plane leaving Sharm-el-Sheikh.
- d. Then crucially, it could kill far greater numbers than it has. The majority of the 33,000 deaths from terrorism in 2014 were in the Middle East, Africa and South Asia, and that is unlikely to change. But the low number of deaths from terrorism in the UK is attributable not to the effectiveness of our insulation from that global threat, which is frankly poor, but rather to the high quality of our intelligence, the remarkable efforts of police and agencies, and their unusual skill in working together.
 - i. The airline liquid bomb plot of 2006, described by Mr Justice Enriques at one of its trials as “*the most grave and wicked conspiracy ever proven within this jurisdiction*” – so he was including the Gunpowder Plot in his comparison – was a mature and credible plot to bring down several transatlantic airliners at the same time.
 - ii. The day of the major spectacular is certainly not over, as the marauding attacks in Paris, and bombs on Russian and Somali airliners, have reminded us in the past few months. This week sees the sentencing of two young men convicted of planning ISIS-inspired drive-by murders in London – one of them, Tarik Hassane, a medical student who pleaded guilty in the course of his trial.
 - iii. He was one of 299 people subject to terrorism-related arrest in Great Britain in 2014-15, exactly 100 of whom were charged with a terrorism-related offence. Northern Ireland, in the same period, saw a fairly standard 73 shooting incidents, 38 bombing incidents (not including petrol bombs or incendiaries) and 227 arrests under the Terrorism Act, 38 of which resulted in charges.
- e. For better or worse, terrorism does frighten us. We might regret the fact, or try to blame it on the press, but it is true. In the aftermath of an atrocity, people curtail their normal activities and feel more suspicious. Terrorism promotes prejudice, and damages community relations.

- f. And when someone does get through, our freedoms are liable to suffer.
 - i. The shoe bomber of December 2001 and the airline liquid bomb plot of 2006 have left a legacy in terms of specific actions required of anyone who travels through an airport – though thankfully, the underpants bomber of 2009 has not.
 - ii. How many atrocities are we away from having our bags screened before we get on the underground, as in Beijing; passing through an arch to get into a hotel, as in much of the Middle East; or having to book long-distance domestic travel in advance, so that we can be checked out by the authorities before we get on a train or ferry?
 - iii. The logic of such proposals is only too clearly understandable. Their deadening effects on our quality of life would be undeniable. Very obviously, prevention is better than cure.

THE LAW RELATING TO TERRORISM

18. For all these reasons, we have chosen to overlay the criminal law – and indeed to some extent the immigration law – with a superstructure of rules specific to counter-terrorism. The philosophical foundation of that law is simple: it is what the security services, some of them football fans as I have mentioned, describe as “*defending further up the field*”. In other words, disrupting and prosecuting suspected terrorists earlier in their planning than the ordinary law would permit, in recognition of the particularly terrible consequences of what they may be seeking to do.

19. Defending further up the field is worked out in a range of different ways:

- a. **Port powers** which include the police power, exercisable on a no-suspicion basis, to detain someone for a total of *six hours*, and to require them to *answer* police questions and to *submit* their phone for downloading: a power endorsed, with qualifications, by a divided Supreme Court in last year’s case of *DPP v Beghal*.
- b. A special **arrest power**, which enables people to be arrested on suspicion of being a terrorist rather than on of committing a specific terrorist crime:

though the marked decline in the use of that power, in Great Britain at least, suggests that it may not often be used for this purpose.

- c. Criminal offences which extend into the **preparatory phase** without the need to show conspiracy, incitement, or attempt. These so-called “*precursor offences*”, some of them introduced in the wake of the 7/7 bombings, include acts preparatory to terrorism, the possession of information likely to be useful for terrorism, the indirect encouragement of terrorism and the dissemination of terrorist publications. Preparation and possession, in particular, are widely prosecuted.
- d. And **executive orders** such as control orders (now known as TPIMs, or terrorism prevention and investigation measures), asset freezes and the new and misleadingly-named temporary exclusion orders, designed to place conditions on the movement of suspected foreign fighters returning to the UK. These orders remain controversial, from a legal point of view, because while they can be challenged in the High Court, the subject of the case does not normally hear the details of the national security case against him. Though a security-cleared special advocate is instructed to fight the subject’s corner, and thus to ensure the maximum fairness that is compatible with national security, that special advocate cannot take instructions once the case has moved into closed, and cannot in practice call expert evidence to counter the case for the Crown.

20. It is easy to spin out of these exceptional powers a narrative of oppressive state action, and there are plenty who are keen to do so. Even our own Supreme Court has expressed a degree of apprehension, noting in *R v Gul* in 2013 that broad discretions on the part of prosecutors and others “*leave citizens unclear as to whether or not their actions or projected actions are likely to be treated .. as effectively innocent or criminal*”, and citing with, I hope, approval, my own remark that “*if special legal rules are to be devised [for terrorism] they should be limited in their application and justified on the basis of operational necessity*”.

21. The broad discretions inherent in our national security law depend, perhaps more heavily than they should, on the good sense and goodwill of those charged with their

exercise. A serving High Commissioner once remarked to me that there are some of our laws so dangerous that their export should require a licence.

22. But before we get carried away, let me make a couple of points by way of perspective.
23. **First**, important features of the legal landscape remain defiantly unaltered where terrorism is concerned.
24. In particular, though the principle of full disclosure has certainly been compromised in TPIM cases, it remains intact in the criminal courts.
 - a. Even in the Incedal trials of 2014 and 2015, in which only accredited journalists were allowed to attend only part of the trial, *every scrap of evidence* relied upon by the prosecution was made known to defendant and jury alike.
 - b. We continue to allow *lay juries* to determine guilt or innocence in even the most serious terrorist trials, save in Northern Ireland where judge-only courts remain an option, primarily as a reaction to paramilitary or community-based pressure on jurors.
25. These safeguards cannot be assumed to be immutable. In 2004, the Home Secretary, David Blunkett, planned to limit the right of terrorism suspects to trial by jury. In the end, more orthodox counsel prevailed: as was said by Ken Macdonald QC, then the Director of Public Prosecutions: "*Changes to the criminal trial process have to be approached with great caution and a clear head.*"
26. The **second** point that I would make by way of perspective is that the period from 2010 through to 2014 was marked by something of a relaxation in the stringency of our counter-terrorism laws.
 - a. The much-used, but largely useless, no-suspicion stop and search power under section 44 of the Terrorism Act 2000 was repealed, by an unlikely but productive alliance between the European Court of Human Rights and the Home Secretary.

- b. The 28-day maximum period of Terrorism Act detention was reduced to 14 days, not increased to 90 or to 42 days as the previous Government had proposed.
- c. Control orders were significantly weakened by their transition into TPIMs, a process only partially reversed in the Counter-Terrorism and Security Act 2015.
- d. The threshold for imposing an asset freeze was raised, following comments by the Supreme Court in the first case that it ever heard, *HM Treasury v Ahmed*.
- e. And as I observed at the time with appreciation, not a single extra power was granted or even requested as we approached the London Olympics of 2012 – surely a unique opportunity for anybody seeking national security powers – save for byelaws and overflight restrictions at the Olympic sites themselves.

27. The process of liberalisation may now have stalled, and even gone gently into reverse. I continue to point out specific respects in which our laws are defective, or their implementation heavy-handed. But given the changed nature of the threat, and in particular the large numbers of people travelling to fight in nearby theatres of war, the scope for further rolling back of our terrorism laws is currently limited. The laws we have are strong – but in most respects, they have passed the Strasbourg test and proved their utility in practice.

28. I do not mean to sound complacent. But I am glad that our vigorous human rights culture, sustained by our incomparable lawyers and NGOs, continues to test every law and every power for its accessibility, foreseeability, necessity and proportionality. And it has been encouraging to see that in a healthy democracy, the ratchet towards ever-stricter terrorism laws can sometimes be released.

EUROPE

29. Since I have now grown used to expressing opinions, I am going to finish by touching on three respects in which it is useful, or even necessary, to have Europe in mind when thinking about terrorism:

- a. First, as a source of *comparisons* by which we can evaluate our own performance.
- b. Secondly, as a source of *legal standards*.
- c. And third, as the vehicle for a *common approach* to our common problems.

Comparisons

30. I start with comparisons. Mrs Thatcher warned in her famous Bruges speech of 1988 of the dangers of trying to create identikit Europeans. Almost 30 years on, such dangers seem almost unimaginably remote. The danger for anyone seeking guidance in the counter-terrorism laws of our fellow-European countries lies not in their indistinguishability from our own, but rather in their utter remoteness to all but a handful of expert academics. How much easier to examine the laws of our commonwealth partners: linguistically accessible variations on a theme.
31. But there have been times when even politicians have reached across the Channel for guidance in dealing with terrorism. Going back a decade or more, Home Secretaries have been frustrated not so much by deficiencies in our intelligence-gathering capabilities as by the difficulties experienced in converting valuable intelligence into criminal convictions. At times, the adequacy of our criminal justice system has been pointedly questioned. I mentioned David Blunkett's doubts about juries in terrorism cases. His successor Charles Clarke went further, describing the French investigating magistrate system in 2004 as "*very superior to anything we have in this country*".
32. Three aspects of the French system, in particular, may have appealed to British Ministers:
 - a. the relative ease with which a suspect may be detained for long periods pending investigation of the case;
 - b. the ability of the investigating magistrate to take into account material that is not shown to the defendant; and

- c. when it comes to trial, the presence of a jury which consists, in a terrorism case, not of lay people but only of professional judges, including at least one specialised in terrorist cases.

- 33. It has also been said that the trial is not so much a testing of the evidence from first principles as a review of work already done by the investigating magistrate. Though sentences are low by English standards, an extremely high conviction rate is testament to the utility of French criminal justice in keeping terrorists off the streets of France.

- 34. It is easy to see why such a system would appeal to Home Secretaries who might have felt the handicap of full disclosure to the defendant of evidence deployed against him, adversarial cross-examination and trial by randomly-selected lay jury. In our system:
 - a. Sensitive national security intelligence cannot be disclosed publicly and therefore cannot be relied upon.
 - b. We further handicap ourselves by treating the product of telephone interception as inadmissible, whether it is national security sensitive or not.
 - c. And people do sometimes get acquitted, including people whom those who know the full intelligence picture know to be extremely dangerous.

- 35. But we did not in the end adopt an investigating magistrate system, as Charles Clarke might have liked. Instead we managed to improve the system we had, in particular by creating a specialist counter-terrorism division within the Crown Prosecution Service. In recent years we have seen a very high number of guilty pleas; and of the 38 persons tried for terrorism-related offences in 2014, a conviction rate of 82%.

- 36. Before we congratulate ourselves on the liberal principles that still characterises our criminal justice system, we should reflect that they come at a cost. Police and prosecutors sometimes have to pull their punches, because the danger to national security of putting incriminating evidence into the public domain will sometimes outweigh the desirability of a conviction. And juries are not always predictable. So even with the addition of the precursor offences, the criminal justice system is not

sufficient in itself to guarantee our safety, at least not to the high standards that we require in these risk-averse days. Hence our occasional resort to executive measures such as TPIMs. No such measures, up to now at least, have been adopted in France.

37. A more topical point of comparison is the state of emergency now in force in the French Republic, recently prolonged by another three months in anticipation of both a new anti-terrorism law and a constitutional amendment, also in the course of parliamentary debate.

38. We could hope that the strong laws we already have in the UK will not make it necessary to resort to the powers of curfew, warrantless search and house arrest that have been used in France under the state of emergency. There was no such resort after 7/7. But once again, complacency is not in order:

- a. The Civil Contingencies Act 2004 has been described as “*the most powerful and extensive peacetime legislation ever enacted*”, and would give the Secretary of State almost unlimited power to issue emergency legislation so long as it is necessary to mitigate the effects of an emergency.
- b. And should the time needed to make emergency regulations be deemed excessive, the Ministry of Justice has suggested that recourse could be had to the Royal Prerogative.

39. So comparisons are instructive, but cross-Channel smugness is not a good look.

Legal standards

40. The second respect in which Europe is relevant to our counter-terrorism law is the standards that are set by its two senior courts: the European Court of Human Rights in Strasbourg, and the Court of Justice of the European Union in Luxembourg.

41. Many British terrorism cases have gone to Strasbourg, under the right to individual petition and – in one case – the inter-state procedure. Some have affected the ability of the British authorities to combat terrorism:

- a. *Ireland v UK* in 1978, currently being revived, on the notorious “*five techniques*” that were used on detained suspects;

- b. *McCann* in 1995 on the use of force in self-defence;
 - c. *A* in 2009, requiring suspects in closed material cases to be given at least the gist of the allegations against them, sufficient for them to instruct counsel in their defence;
 - d. *Gillan and Quinton* in 2010, on no-suspicion stop and search.
42. Some of those cases were highly controversial at the time. But I doubt whether intelligence agencies or police would now wish to argue against any of those results. And in the past five years, a series of further cases has upheld key elements of the legal regime governing counter-terrorism: the possession offence (Jobe, 2011); the principle at least of deportation with assurances (Othman, 2012), safety interviews (Ibrahim, 2014), Terrorism Act detention (Sher, 2015) and the test for self-defence (da Silva, 2016).
43. Where a more serious problem may be developing is in relation to the currently topical issue of data and privacy. The different mindset of judges in the UK and those from countries with less fortunate experiences of state power in the 20th century can be seen from the DNA retention case *S and Marper*, in which 10 British judges in three courts ruled that our law was acceptable, only to be told by a unanimous Grand Chamber of 17 judges in Strasbourg that it was not. Though the result was gracefully swallowed, and our law changed in 2012.
44. The former Attorney General Dominic Grieve, in evidence to Parliament's Justice Committee, recently referred to the Strasbourg court as "benign" and the Luxembourg court as "predatory". I don't go that far – if only because I still have a practice before each of them. But it is at least conceivable that the EU court will present greater challenges to the Government than its Council of Europe equivalent.
45. Of particular interest here is the case brought by the MPs David Davis and Tom Watson about the retention of phone and email records, founded on the Charter of Fundamental Rights and recently referred to the Court of Justice of the EU by the Court of Appeal. The issue is central to the Investigatory Powers Bill currently being debated in committee. We have no result yet - but the hearing took place on 12th April, and the Advocate General's Opinion will be in July. I suspect the Court wants

to have its say before the Bill has passed through Parliament – though after the Referendum.

Common approach

46. The third respect in which Europe impinges on the fight against terrorism is in the mechanisms that the EU has provided for co-operation in matters of intelligence and investigations.
47. The need for international collaboration against terrorism, with a wide range of countries across the world, is a given. Though national borders remain, they can be crossed with increasing ease. And national borders are rare indeed in the online world where more and more of our business – including the business of the terrorist – takes place.
48. The most important intelligence-sharing alliance in the world is the Five Eyes alliance between Britain, the US, Canada, Australia and New Zealand. Intelligence-sharing between Britain and the US is the most concrete and significant element of the special relationship. It has played an appreciable role in keeping us, and others – including our fellow-Europeans – safer.
49. The Five Eyes alliance has nothing to do with the European Union. But this does not mean that Europe is a side show when it comes to collaboration against terrorism. *“European responses to terrorism”, in the words of one writer, “have generally followed major incidents and could be described, unkindly, as knee-jerk reaction to assure public opinion that governments were doing something.”* But we have seen some important developments nonetheless:
 - a. The European Arrest Warrant, Eurojust, the Framework Decision and the Action Plan against Terrorism, which came in after 9/11.
 - b. After the Madrid and London massacres of 2004-5, call data retention and the sharing of air passenger records with the US.
 - c. And just last week, clearance from the European Parliament for the long-negotiated plan to share air passenger records between our own Member States.

50. Those measures, and others like them, really matter.
- a. Terrorists like Husain Osman, one of the 21/7 failed bombers, can be extradited in weeks rather than years.
 - b. The sharing of DNA records and vehicle registration data, and the construction of common databases, has a long way to go. But it can already provide valuable leads in relation to terrorism, as I saw for myself last month in Coquelles, in Dover and at St Pancras.
51. So when the Coalition Government was considering opting out permanently from 130 EU police and criminal justice measures, as the Lisbon Treaty gave it the right to do, the police identified a number that it was “*vital*” we opt back into, and the parliamentary committee charged with looking at the issue reported that opting out would have “*significant, adverse, negative repercussions for the internal security of the United Kingdom*”.
52. Fortunately, as Jean Monnet is supposed to have said: “*The English resist ideas; but they do not resist facts.*” We did opt back into the measures that mattered, and we stand to benefit as jihadis travelling overland through Europe demonstrate the futility of attempting to organise intelligence and counter-terrorism policy on a purely national basis.
53. Even if we leave the EU, it would no doubt be possible to retain associate membership of Europol; to negotiate access to databases; to function, in the language of the Bar, as a sort of European door tenant.
54. But we need to understand that an arrangement along those lines would be wholly different in nature from what we have at the moment – which is, to put it bluntly, a position of leadership where European counter-terrorism policy is concerned.
55. Thanks to British influence:
- a. European instruments require all Member States to have terrorism laws of a type that we were the first to introduce.

- b. The EU action plan on terrorism, drafted during a UK Presidency, is heavily modelled on the UK's own *CONTEST programme*, whose four elements (Pursue, Prevent, Protect, Prepare) have been translated into the only slightly less alliterative Pursue, Prevent, Protect, Respond.
- c. It is the UK which has taken the lead in producing EU policies on *counter-radicalisation*, both internally and in third countries; on aviation security; on risk and threat analysis; and on the sale of dangerous goods.
- d. *Europol*, some 10% of whose cases concern counter-terrorism, has developed under UK leadership into an effective information hub.
- e. And the UK has, as one would expect, been exceptionally useful in managing the *relationship between the EU and the USA*.

56. This leadership did not fall into our lap: it was hard won, because we saw earlier than most the importance of an effective counter-terrorism response across the continent. That response is a work in progress, which we continue to guide in our own interests and those of the rest of Europe.

57. We could, of course, surrender our leadership and accept instead whatever it is that others come up with. Or we could maintain our involvement, build our alliances, and even perhaps – one can always dream – extend that leadership to other elements of the European project.

58. More than 30 years ago Luigi Barzini, the Italian journalist, said that when one asks a Briton, 'Are you European?', the answer is always, "'Yes', but after a long thoughtful pause in which all other continents are mentally evoked and regretfully discarded". As we all embark on that long, thoughtful pause, these points are perhaps something to reflect upon.

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