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Review Essay

Counter-Terrorist Measures and their Impact

Wilkinson, Paul. *Terrorism Versus Democracy: The Liberal State Response*. London: Frank Cass, 2001.

Donohue, Laura K. *Counter-Terrorist Law and Emergency Powers in the United Kingdom 1922-2000*. Dublin: Irish Academic Press, 2001.

Devising counter-terrorist measures and assessing their impact involves complex and difficult issues. The ideal response is one that balances greater security on the one hand, while preserving civil liberties on the other. Therefore, the two most important questions for a liberal democratic response to terrorism have been: what is the best response and to what extent will it impact upon civil liberties? *Terrorism Versus Democracy* addresses the first question; while *Counter-Terrorist Law and Emergency Powers in the United Kingdom 1922-2000* explores the second. Whereas Paul Wilkinson's work takes a broad view of liberal democratic counter-terrorist measures, Laura Donohue's examines one specific aspect of a liberal democratic response, counter-terrorist legislation, in a specific historical setting, the United Kingdom. Despite differences in subject matter and approach, these works are complementary in some respects.

For many scholars and practitioners in the terrorism and security fields, Paul Wilkinson is a well-known and, some may say, controversial figure. In this "sequel" to his earlier *Terrorism and the Liberal State* (revised edition 1986), that outlined a "hard-line approach" for liberal democracies to combat terrorism, Wilkinson "concentrates on the problems of identifying and implementing an effective democratic response to terrorism which is proportionate and fully compatible with the maintenance of democracy, human rights and the rule of law." (p. vii) In doing so, he retained the same thesis from his previous work: "although there is no magic formula for tackling terrorism and each conflict has its unique character and calls for its own unique mixture of policies and measures for an effective response, it is quite wrong to assume that democracies are helpless in combating major terrorist threats." (p. vii-viii)

Essentially, this book is a collection of essays that examine response options for liberal democracies. Nothing falls outside the scope of this book. It covers many wide-ranging issues, including the role of the media, international cooperation, aviation security, hostage situations, military options, political measures, peace-processes, as well as an overview of modern terrorism and its future trends, to name only a few. Such a broad approach fits well with Wilkinson's assertion that a "multi-pronged" approach is the most effective for combating terrorism. (pp. 94, 224)

In Wilkinson's view, purely political or military responses represent the two extremes of democratic responses to terrorism; the one constituting an under-reaction, while the other an over-reaction. He rejects purely political responses because "no democratic government worthy of the name could have dreamt of attempting to accommodate or compromise with the bizarre and dangerous apocalyptic ideas of the Aum Shinrikyo cult, for example, or with the white supremacist ideas and conspiracy theories of, say, the neo-

Nazi right in America." (p. 80) Likewise he views a purely military response to terrorism as inappropriate because it could trigger a war which is, in his view, a "greater evil" than terrorism. (p. 104)

As in his earlier work, Wilkinson prefers a middle course and advocates a robust "hard-line approach" to combat terrorism. (p. 94) Therefore, he favors the so-called "criminal-justice" model that emphasizes prevention through political measures designed to address legitimate grievances; greater security measures, such as increased security screening of people and luggage at airports; and, most importantly, proactive policing and intelligence strategies. Indeed, according to him, "high-quality intelligence is at the heart of the proactive counter-terrorism strategy . . .. By gaining advanced warning of terrorist-planned operations, terrorists weaponry, personnel, financial assets and fundraising, tactics, communications systems, and so on, it becomes feasible to pre-empt terrorist attacks, and ultimately to crack open the terrorist cell structure and bring its members to trial." (p. 231) Although international cooperation has thus far been a failure, there are encouraging signs of increasing international cooperation between police and intelligence services through TREVI and EUROPOL. (p. 195)

This book is forcefully argued and packed full of Wilkinson's prescriptive suggestions, some of which are ambitious and somewhat unrealistic, such as the standardization of criminal codes among states to facilitate extradition (p. 195); while others are much more practical, such as the coordination and central direction of airline security, and the need for adequately trained police and military units to respond to hostage situations. (pp. 152, 164) This book also contains some welcome refinements to his earlier work, most notably the allowance for concessions and negotiations in the context of peace processes or in hostage situations. (p. 96) Although there are no simple solutions to the challenge of terrorism and democratic response options must be considered on a case-by-case basis, Wilkinson reminds us that "the general principles of the firm hard-line strategy for liberal democracies in combating terrorism have the best track record in reducing terrorism." (p. 233)

Although some may disagree with his suggestions for implementing security policies and improving existing ones, Wilkinson nonetheless elucidates the problems of developing a response and identifies key areas that require improvement. However, in arguing so forcefully for improving security, he dodges thorny issues, such as reconciling the "hard-line approach" with the values and freedoms of a liberal democratic society. Indeed, an inescapable fact that was omitted by Wilkinson is that proactive policing and intelligence strategies inevitably impinge on civil liberties.

Whereas Wilkinson stopped short of delivering an assessment of the impact of the "hard-line" approach, Laura Donohue provides one. Although critics of Wilkinson's "hard-line" approach point to Northern Ireland as an example of its failure, he responds by noting that "even in this severest test, the criminal justice model of response and police primacy works best." (p. 34) In contrast, Donohue suggests that not only does this approach encroach upon civil liberties, but it may well contribute to prolonging the violence. Donohue, a Fellow at Harvard University's John F. Kennedy School of Government, has produced an important work that is essential for an understanding of the conflict in Northern Ireland. This book is an historical account of the origins and subsequent development of emergency legislation promulgated by Northern Ireland's Unionist

Stormont regime and, later, the British government. Not only does she argue that "political forces repeatedly turn to the codification of emergency powers as a means to secure the [Irish] State, North or South", but Donohue demonstrates that "powers of detention and internment, special courts, extensive powers of entry, search and seizure, the waiving of the right to silence, and the imposition of limits on freedom of movement have marked Ð and continue to characterize Ð emergency law vis-ˆ-vis Ireland." (p. xix)

Well-written, meticulously researched, and thoroughly argued, Donohue's work achieves high academic standards. Her analysis reveals the impact of emergency measures in relation to a conflict whose complex nature is rooted in one community's struggle for self-determination and another's struggle for the preservation of the state. Donohue contends that "these powers both limit and perpetuate violence." (p. xix) According to her, while "in the short term such policies may well impact the immediate level of violence, in the long term they do unimaginable damage to the social and political dynamics of the conflict." (p. 354)

The book is organized chronologically into seven chapters. The first chapter examines the creation of Northern Ireland and the introduction of emergency powers in the form of the Civil Authorities (Special Powers) Acts (SPAs). Subsequent chapters examine the provisions of the SPAs; how these measures became one of the central grievances that led to the outbreak of violence and civil unrest in 1969; the introduction of direct rule by London and its adoption and retention of the Northern Ireland (Emergency Provisions) Acts (EPAs), that retained many of the hated SPA powers; the promulgation and maintenance of emergency powers on the British mainland in the form of the Prevention of Terrorism (Temporary Provisions) Acts in response to a Provisional IRA bombing campaign; while the final chapter offers some reasons for the retention of emergency powers and their incorporation into a permanent statute.

Beyond the analysis of the individual Acts, this book exposes the numerous paradoxes and ironies involved in the use of emergency powers in a liberal democracy. While the use of these powers secured the Northern Irish state, they alienated the minority community, thereby contributing to the insecurity and instability of the state. (pp. 353-54) Donohue also raises some difficult but important questions: at what point do law-makers draw the line between securing the state on the one hand, and preserving civil liberties on the other? She suggests that a considerable degree of latitude exists in which emergency legislation may be introduced and exercised. (p. 308) As for the overall impact of Britain's use of emergency measures, Donohue asserts:

these wide-sweeping measures alienated a significant portion of the population, exacerbated the conflict, contributed to the suspension of the Northern Ireland Parliament, allowed for significant miscarriages of justice and a weakening of British civil liberties and resulted in drawing international attention and condemnation of British domestic legislation. (p. 307)

Although one may agree with her assessment of the problems involved in the use of emergency powers, Donohue offers no alternatives. Caught between the possibility of another civil war in Ireland or a military-style counter-insurgency campaign - both of which were politically unacceptable - Britain was left with little choice but to enact emergency measures. Also, the activities of the Provisional IRA played no small part in perpetuating the violence.

Furthermore, as Donohue grudgingly concedes, the intelligence information gained through the use of special powers, such as the arrest and detention provisions, significantly reduced the level of violence. (pp. 322-23) Whereas Donohue's work shows the effects of one aspect of the criminal-justice model, it unwittingly supports Wilkinson's assertion that even in the most intractable of counter-terrorism campaigns the "hard-line" approach is the best response option to employ in a liberal democratic context. Although over time this approach may have exacerbated the conflict in Northern Ireland, an equally plausible argument can be made for the effectiveness of this approach in reducing the level of violence.

Both of these books are extremely well-researched and well-written. They are highly recommended for specialists in the fields of terrorism and security studies, as well as students and non-specialists alike. Donohue's work, in particular, is as timely as it is necessary in light of the recent rush to legislation among many Western democracies in the aftermath of 9/11. Of the numerous lessons today's policy makers could draw from this work, perhaps the most important is the recognition that introducing "temporary" emergency legislation to combat terrorism can quickly evolve into a permanent statute with the corresponding erosion of civil liberties.

Bradley W. C. Bamford received his Master of Arts in Military History from the University of New Brunswick, and has entered the doctoral program in International Relations at the University of Toronto.