

NEW UNITED KINGDOM TERRORISM BILL AND ITS IMPLICATIONS FOR CANADA

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A. INTRODUCTION

In the United Kingdom (“U.K.”), where there are already over two hundred separate counterterrorism laws,¹ the introduction of the fourth major addition to the anti-terrorism arsenal since the turn of the millennium has met with surprisingly little fanfare outside of its borders. On October 12, 2005, Tony Blair’s government followed through on its promises to crack down on Islamic extremism, introducing its new *Terrorism Bill 2005* (“Bill 55”) in the House of Commons. The controversial anti-terror measures, which build upon various measures put in place since September 11, 2001, come at a critical juncture in the development of measures to counter the worldwide threat of terrorism. Bill 55 also comes on the heels of a resolution of the United Nations Security Council, sponsored by the U.K., calling on all governments to adopt laws that prohibit people from “inciting” others to commit terrorist acts, and to deny safe haven to anyone seriously considered guilty of such conduct. It also calls on all countries to counter violent extremist ideologies, including steps to prevent the subversion of educational, cultural, and religious institutions by terrorists and their supporters.

¹ Iain MacWhirter, “It’s time for zero tolerance of Labour” (*The Sunday Herald*, 16 October 2005, pg. 23).

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These developments in counterterrorism measures in the U.K. raise questions with respect to the future of similar measures in Canada and other democratic states. This *Anti-Terrorism Alert* examines Bill 55 and the events leading up to its introduction, and considers the implications for Canada.

B. ANTI-TERROR MEASURES IN THE U.K.

Bill 55, if enacted, will become the fourth major piece of counterterrorism legislation introduced in the U.K. since 2000.² The *Terrorism Act 2000* (“TACT”) is the primary piece of counterterrorism legislation and contains what the Home Office describes as the most vital counterterrorism measures. This includes:

- **Making terrorist groups illegal (“proscription”):** TACT made it illegal for certain terrorist groups to operate in the U.K. and extended proscription to include international terrorist groups, like Al Qaida;
- **Enhanced police powers:** Under TACT, police were given greater powers to help prevent and investigate terrorism, including wider stop and search powers and the power to detain suspects after arrest for up to seven days; and
- **New criminal offences:** TACT introduced a number of new offences allowing police to arrest individuals suspected of inciting terrorist acts, seeking or providing training for terrorist purposes at home or overseas, and providing instruction or training in the use of firearms, explosives or chemical, biological or nuclear weapons.

Home Office statistics indicate that in the period from September 11, 2001 to September 30, 2005, 895 people were arrested under TACT.³ Of these 895 people, 496 were eventually released without charge, while only 23 were convicted of offences under TACT.

In 2001, the *Anti-terrorism, Crime and Security Act 2001* (“ACSA”) was introduced in order to provide stronger powers to allow the police to investigate and prevent terrorist activity and other serious crime. The measures were intended to cut off terrorist funding; ensure the government departments and agencies could collect and share information required for countering the terrorist threat; streamline relevant immigration procedures; ensure the security of the nuclear and aviation industries; improve the security of dangerous substances that may be targeted/used by terrorists; and extend police powers.

² For further discussion on U.K. anti-terrorism legislation, please see Sean S. Carter and Johanna Blom, “The Perception and Interpretation Burden: The Charity Commission of England and Wales Policy on Charities and Their Alleged Links to Terrorism” in *Antiterrorism and Charity Law Alert No. 2* (30 April 2003), available at www.antiterrorism.ca.

³ See <http://www.homeoffice.gov.uk/security/terrorism-and-the-law/terrorism-act/>.

Following a House of Lords decision, as discussed below, the government introduced the *Prevention of Terrorism Act 2005* (“PTA 2005”), which repealed the impugned powers under the ACSA and replaced them with a system of control orders.

C. CHAHAL DECISION

As is evident from above, the U.K.’s path to the vast collection of counterterrorism laws has been long and winding. A significant bump on the road was the 1996 decision of the European Court of Human Rights in *Chahal v. U.K.*⁴ Chahal, a Sikh separatist and an Indian citizen who had been granted indefinite leave to remain in the U.K., was targeted for deportation by the Home Secretary of the day because his continued presence was considered non-conducive to the public good for reasons of a political nature, primarily the international fight against terrorism. He resisted deportation on the ground that, if returned to India, he faced a real risk of death, or of torture in custody contrary to article 3 of the *European Convention for the Protection of Human Rights and Fundamental Freedoms* (“Convention”), which provides that “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.” In proceedings before the European Court, the U.K. contended that the effect of article 3 should be qualified in a case where a state sought to deport a non-national on grounds of national security. The Court rejected this argument, stating in unqualified terms:

... the convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the victim’s conduct. Unlike most of the substantive clauses of the convention ... [article] 3 makes no provision for exceptions and no derogation from it is permissible under art 15 even in the event of a public emergency threatening the life of the nation.⁵

This prohibition was extrapolated to cases of expulsion. The Court placed the onus upon the contracting state to safeguard individuals against such treatment, saying that “the activities of the individual in question, however undesirable or dangerous, cannot be a material consideration.”⁶

In considering Chahal’s detention, the Court concluded that any deprivation of liberty under article 5(1)(f) will only be justified for as long as deportation proceedings are in progress. In cases where deportation is

⁴ (1996) 1 BHRC 405 [*Chahal* decision].

⁵ *Ibid.* at 422.

⁶ *Ibid.*

precluded, article 5(1)(f) would not sanction detention even if the individual were judged to be a threat to national security.

The U.K. government is hoping to persuade the European Court of Human Rights to overturn this ruling as it intervenes in a case brought against the Netherlands by an Algerian accused of involvement in Islamic terrorism. The man, who is seeking asylum, claims he would face political persecution if he were sent back to Algeria. In seeking the reversal of the *Chahal* decision, Home Secretary Charles Clarke said, “the right to be protected from the death and destruction caused by indiscriminate terrorism is at least as important as the right of the terrorist to be protected from torture and ill-treatment.”⁷

The *Chahal* decision played a pivotal role in the measures that led up to the litigation at issue in the House of Lords decision in late 2004.

D. HOUSE OF LORDS (“BELMARSH”) DECISION

In late December 2004, the House of Lords, the U.K.’s highest judicial authority and final court on points of law for the whole of the United Kingdom in civil cases and for England, Wales and Northern Ireland in criminal cases,⁸ came out with its decision in *A. v. Secretary of State for the Home Department*.⁹ In an eight to one majority (Lord Hoffmann dissenting), the law lords ruled that the indefinite detention of foreign suspects without charge or trial in Belmarsh prison breached their human rights.

The case involved the U.K.’s *Human Rights Act 1998 (Designated Derogation) Order 2001* (“Order”), which was implemented following the attacks in the United States on September 11, 2001. The Order derogated from the right to liberty as is provided by article 5(1)(f) of the Convention, and ratified in the *Human Rights Act 1998*. Article 5(1)(f) of the Convention guarantees that “everyone has the right to liberty and security of the person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law ... (f) the lawful arrest or detention of ... a person against

⁷ Joshua Rozenberg, “Terror suspects may face expulsion” (Telegraph.co.uk, 3 October 2005).

⁸ Although the law lords are part of a legislative body of the U.K. Parliament, an unusual situation in a democracy, this is an historical role for the House of Lords, dating back 600 years. Today, only “highly qualified judges” who are appointed to be professional law lords take part in the judicial function of the House. In October 2008, the judicial function of the House of Lords will be transferred to a new U.K. Supreme Court, which will be constitutionally and physically separate from Parliament.

⁹ [2004] UKHL 56, [2005] 2 AC 68, [2005] 3 All ER 169 [Belmarsh decision].

whom action is being taken with a view to deportation.” Derogation from the Convention is permitted by article 15 where there is a “public emergency threatening the life of the nation.”

Accordingly, the *Human Rights Act 1998 (Designated Derogation) Order 2001* was made, and the ACSA was enacted, which provided that a suspected international terrorist could be detained under specified provisions of the *Immigration Act 1971*, despite the fact that his removal or departure from the U.K. was prevented, whether temporarily or indefinitely, by a point of law which wholly or partly related to an international agreement, or a practical consideration. In simple terms, ACSA enabled the U.K. government to detain any foreign national suspected of links to terrorism who did not opt to be deported. But those detained could not be deported if it would mean persecution in their homeland.

The appellants were all non-U.K. nationals who faced the prospect of torture or inhuman treatment if returned to their own countries, could not be deported to any third countries, and were not charged with any crime. Thus, without the derogation order, they could not be detained. All were certified by the Secretary of State as “suspected international terrorists” and detained under ACSA.

The men initially took their cases to the Special Immigration Appeals Commission (“SIAC”), which ruled in 2002 that the anti-terror act unjustifiably discriminated against foreign nationals since British nationals, who were equally dangerous, could not be held in the same way. However, this ruling was later overturned by the Court of Appeal, which said that there was a state of emergency threatening the life of the nation.

Although the House of Lords held that “great weight should be given to the judgment of the Home Secretary, his colleagues and Parliament on this question [of whether there is a public emergency threatening the life of the nation], because they were called on to exercise a pre-eminently political judgment,”¹⁰ it did not mean that the courts could never intervene. As Baroness Hale of Richmond stated, “[u]nwarranted declarations of emergency are a familiar tool of tyranny.”¹¹ Although acknowledging that the events of September 11, 2001, justified the conclusion that there was a public emergency threatening the life of the nation, the court

¹⁰ *Ibid.* at para. 29.

¹¹ *Ibid.* at para. 226.

concluded that “what is then done to meet the emergency must be no more than is strictly required by the exigencies of the situation.”¹² Baroness Hale of Richmond wrote:

The conclusion has to be that it is not necessary to lock up the nationals. Other ways must have been found to contain the threat which they present. And if it is not necessary to lock up the nationals it cannot be necessary to lock up the foreigners. It is not strictly required by the exigencies of the situation.¹³

The law lords ultimately held that the measures were incompatible with other obligations under international law, from which there had been no derogation. Accordingly, the derogation order was quashed and a declaration was made that section 23 of ACSA was incompatible with articles 5 and 14 of the Convention.

In his judgment, Lord Nicholls of Birkenhead stated:

... indefinite imprisonment without charge or trial is anathema in any country which observes the rule of law. It deprives the detained person of the protection a criminal trial is intended to afford. Wholly exceptional circumstances must exist before this extreme step can be justified.¹⁴

In more damning terms, Lord Hoffman wrote, “[t]he real threat to the life of the nation ... comes not from terrorism but from laws such as these.”¹⁵

Of note, however, was the fact that despite the decision, the House of Lords did not have the power to order that the detainees be released.¹⁶ As such, Home Secretary Charles Clarke said the men would remain in prison, and the measures would remain in force until the law was reviewed, likely in the New Year.¹⁷

That review came in the form of PTA 2005, which repealed the impugned powers under ACSA and replaced them with a system of control orders. Control orders can be made against any suspected terrorist, whether a U.K. national or not, and whether the terrorist activity is international or domestic. They enable the authorities to impose conditions upon individuals ranging from prohibitions on access to specific items or

¹² *Ibid.* at para. 227.

¹³ *Ibid.* at para. 231.

¹⁴ *Ibid.* at para. 74.

¹⁵ *Ibid.* at para. 97.

¹⁶ *Ibid.* at para. 220.

¹⁷ The men were detained in Belmarsh until March of 2005 when they were released with restrictions placed on their communications and movements. However, they were abruptly detained again in August, with the government intending to expel them from the U.K.

services, and restrictions on association with named individuals, to the imposition of restrictions on movement or curfews. As one commentator described the provisions, they “[allow] the Home Secretary to impose ‘gag and tag’ restrictions on all suspected terrorists.”¹⁸ Control orders must be renewed every twelve months, and a breach of any of the obligations without reasonable excuse is a criminal offence punishable with a prison sentence of up to five years and/or an unlimited fine.

E. FROM VICTORY TO THE SHADOWS: THE JULY TERRORIST ATTACKS AND THE NEW TERRORISM BILL

Although the Belmarsh decision was heralded as a blow to the government’s anti-terror measures and commentators suggested that the government would find it hard to avoid giving effect to the ruling,¹⁹ the July 2005 terrorist attacks on London’s transit system effectively renewed the social consensus, giving new life to the government’s push to increase security measures: “July 7 was a news event to which Labour felt they had to respond aggressively.”²⁰

On October 12, 2005, Home Secretary Charles Clarke followed through on the promises outlined by Tony Blair in early August 2005, with the introduction of Bill 55, the *Terrorism Bill 2005*. The measures proposed in Bill 55 include, among other things:

- Creating an offence of encouragement of acts of terrorism;²¹
- Creating offences relating to the sale and other dissemination of books or other publications, including internet material, that encourage people to engage in terrorism, or provide information that could be useful to terrorists;²²
- Creating an offence of the preparation of terrorist acts, which adds to the common law of conspiracy to carry out terrorist acts and attempting to carry out terrorist acts;²³
- Implementing article 7 of the *Council of Europe Convention for the Prevention of Terrorism*, which requires parties to create an offence of training for terrorism;²⁴

¹⁸ Joshua Rozenberg, “Dilemma puts law lords on the rack: Ruling sought on using terrorism evidence if torture suspected” (*The Daily Telegraph* (London), 13 October 2005, pg. 17).

¹⁹ George Jones & Joshua Rozenberg, “Anti-terror laws rejected on Clarke’s first day” (Telegraph.co.uk, 17 December 2004).

²⁰ *Supra* note 1.

²¹ Bill 55, cl. 1.

²² Bill 55, cl. 2.

²³ Bill 55, c. 5.

²⁴ Bill 55, c. 6.

- Creating an offence of attending a place used for terrorist training;²⁵
- Creating extra-territorial jurisdiction for the U.K. courts for the new offences in Part 1 of the Bill and two offences in TACT, which means that an individual who commits one of the designated offences in a foreign country would be liable under U.K. law in the same way as if they had committed the offence in the U.K.;²⁶
- Attaching liability for offences committed by corporate bodies to the company directors whether the offences be committed by their consent or connivance, or on account of their neglect;²⁷
- Giving the Secretary of State the power to add an organization to the list of proscribed organizations if he believes that the organization is concerned in terrorism, which definition includes the promotion or encouragement of terrorism;²⁸ and
- Extending the period of detention by judicial authority prior to charging those arrested under section 41 of TACT from fourteen days to up to three months.²⁹

Despite the social consensus that developed in the wake of the July 2005 terrorist attacks, the new terrorism legislation has met with significant criticism, from both inside and outside the Labour Party. Community groups and civil rights advocates have condemned the measures as “draconian,”³⁰ and Blair has acknowledged that the bill has split the Labour Party, especially with respect to the 90 day detention and making “encouraging” or “glorifying” terrorism a crime.³¹ Blair has also failed to get the backing of Lord Carlile of Berriew, the independent watchdog he appointed to oversee anti-terror legislation.³² In his report on the Terrorism Bill, Lord Carlile expressed regret at seeing district judges preside over applications to extend detention periods beyond the current fourteen days.

Inevitably the material they see is likely to be one-sided, and they have only modest opportunity for in-depth scrutiny. Though they can ask questions and do seek further information, they have no role in the inquiry under way and they have no independent advice or counsel before them. The procedure before district judges in my view has characteristics suited to short interference

²⁵ Bill 55, cl. 8.

²⁶ Bill 55, cl. 17.

²⁷ Bill 55, cl. 18.

²⁸ Bill 55, cl. 21.

²⁹ Bill 55, cl. 23.

³⁰ Sandro Contenta, “U.K. groups decry terror bill” (*Toronto Star*, 13 October 2005, pg. A10).

³¹ *Ibid.*

³² *Ibid.*

with liberty. ... A more searching system is required to reflect the seriousness of the State holding someone in high-security custody without charge for as long as three months.³³

In commenting on the proposals, Human Rights Watch has called them an “outright breach of the U.K.’s human rights obligations,” suggesting they are so ill-defined and overly broad that “they risk criminalizing valid forms of dissent and undermining freedom of religion.”³⁴ The Law Society has argued that increasing detention powers from fourteen days to three months would be “tantamount to internment.”³⁵

F. IMPLICATIONS FOR CANADA

Although federal Justice Minister Irwin Cotler and Public Safety Minister Anne McLellan reassured Canadians in September 2005 that the Liberal government was not planning changes to its anti-terrorism legislation, Cotler has told the Canadian Bar Association that he won’t rule out adopting U.K.-style legislation to combat terror.³⁶ Also, in his appearance before the Special Committee of the Senate on the *Anti-terrorism Act*, Cotler listed the “comparativist principle” as one of the foundational principles underpinning Canadian anti-terrorism law. Cotler said:

... in determining the justificatory basis for Bill C-36, Parliament had recourse to comparative anti-terrorist legislation in other free and democratic societies, such as the U.K., the U.S., Australia, France, Germany, and the like. The importance of this, and the experience gained from it, was not only to appreciate what other free and democratic societies were doing, but to understand that all other free and democratic societies had enacted or were enacting anti-terrorist legislation; and that the purpose of these enactments – looking at their *travaux préparatoires* – was to protect those societies and allow them to remain free and democratic.³⁷

Cotler concluded his comments to the Senate Committee saying that the challenge in developing a comprehensive anti-terrorism law is “not one of balancing the protection of national security with the protection of human rights but one of re-conceptualizing human rights as including national security and vice

³³ Lord Carlile of Berriew, “Proposals by Her Majesty’s Government for Changes to the Laws Against Terrorism: Report by the Independent Reviewer Lord Carlile of Berriew Q.C.” (13 October 2005) available at http://www.timesonline.co.uk/article/0,,22989-1822736_00.html.

³⁴ Human Rights Watch, “U.K.: Proposed Anti-Terrorism Measures Threaten Fundamental Rights,” available at http://hrw.org/english/docs/2005/08/10/uk11620_txt.htm.

³⁵ Simon Freeman, “Terror watchdog savages new Bill as ‘too extensive’” (*Times Online*, 12 October 2005).

³⁶ Steve Mertyl, “Cotler says law review may eye British steps” (*The Globe and Mail*, 16 August 2005).

³⁷ Irwin Cotler, “Speech by the Hon. Irwin Cotler, Minister of Justice and Attorney General of Canada on the Occasion of an Appearance Before the Special Committee of the Senate on the *Anti-terrorism Act*” (21 February 2005).

versa. The inquiry is not one of the freedoms that should be surrendered, but of the rights that should be secured. The two are inextricably linked.”³⁸

It would seem highly unlikely that more restrictive measures are required to enhance Canada’s counterterrorism measures. Simply stated, Canada’s legislation not only allows the government to meet its obligations under the September 2005 U.N. resolution, but already places the country in the lead internationally in the breadth of its anti-terrorism legislation. In fact, in Canada’s haste to respond to the events of September 11, 2001, Parliament has enacted legislation that rightly falls victim to criticism for its overly broad and restrictive measures.³⁹

In this regard, there is no need to follow the U.K.’s lead, as Canada’s *Anti-terrorism Act* already has provisions that are broad enough to cover the “encouraging” and “disseminating” provisions of U.K.’s Bill 55, all of which were introduced as amendments to Canada’s *Criminal Code*.⁴⁰ Of particular note are the following offences:

- Section 83.18: Directly or indirectly participating or contributing to any actions that enhance the facilitation of a terrorist activity;
- Section 83.21: Directly or indirectly instructing a person to carry out activities for the benefit of a terrorist group; and
- Section 83.22: Directly or indirectly instructing a person to carry out a terrorist activity.

The assumption underlying these amendments to the *Criminal Code* is that certain offences, specifically terrorism offences, including the threat of or attempt to commit such offences, warrant an extraordinary approach in the methods of investigation, incarceration and punishment due to the very nature of those offences. Whether intended or not, the amendments potentially place innocent individuals and organizations in Canada in peril of being branded terrorists and suffering the concomitant consequences.

Particularly troubling is the facilitation offence in section 83.19. A person who “knowingly facilitates a terrorist activity” is liable to fourteen years imprisonment on conviction. Although the government purports

³⁸ *Ibid.*

³⁹ For further discussion of Canada’s anti-terrorism legislation, please see Terrance S. Carter, “The Impact of Anti-Terrorism Legislation on Charities: The Shadow of the Law” (27 September 2005), available at www.antiterrorism.ca.

⁴⁰ R.S.C. 1985, c. C-46.

to have imported a high level of *mens rea* into the offence – knowingly facilitating – the inclusion of the poorly drafted definition of “facilitation” in subsection (2) has the effect of extending the definition of “terrorist activity” and “terrorist group” to otherwise innocent organizations and people who unwittingly become tarred by association without any culpability or intent to be part of a terrorist activity. Subsection 83.19(2) defines “facilitation” as follows:

- For the purposes of this Part, a terrorist activity is facilitated whether or not
- (a) the facilitator knows that a particular terrorist activity is facilitated;
 - (b) any particular terrorist activity was foreseen or planned at the time it was facilitated; or
 - (c) any terrorist activity was actually carried out.

A plain reading of this subsection implies the *mens rea* element of the offence has been diminished to the point that it verges on a strict liability offence. In her appearance before the House of Commons Standing Committee on Justice and Human Rights, Justice Minister Anne McLellan stated that the purpose for moving the definition of “facilitate” from section 83.01 (the definitions section) to section 83.19 was to respond to criticism that the separation of the definition from the offence was confusing and failed to clearly emphasize that facilitation must be “knowing.”⁴¹ Yet, it is precisely the lack of clarity in the legislative drafting that perpetuates the peril in which innocent third parties currently find themselves.

The stated purpose of subsection 83.19(2) is to capture circumstances in which the person is prepared to assist a terrorist group without specifically knowing the specific objective,⁴² yet its wording can be read as nothing more than a qualification of the fault element of subsection 83.19(1).

As Eunice Machado has argued,

Reading the legislation in its best possible light, one can interpret subsection (2)(a) as emphasizing the word “particular” which would mean that the facilitator need not know which terrorist activity is being assisted. The accused need merely know that they are somehow assisting in a terrorist activity. Similarly, subsection (2)(c) can be understood to mean that the

⁴¹ Anne McLellan, “Notes for the Justice Minister” (Appearance before the House of Commons Standing Committee on Justice and Human Rights – Bill C-36, November 2001). For discussion of the mandated review of Canada’s antiterrorism legislation, please see Terrance S. Carter and Sean S. Carter, “The Three Year Review of C-36 Anti-terrorism Act: The Ongoing Consequences and Impact for Canadian Charities” in Anti-terrorism and Charity Law Alert No. 7 (21 July 2005), available at www.antiterrorism.ca.

⁴² Richard G. Mosley, “Preventing Terrorism. Bill C-36: The Anti-Terrorism Act 2001” (Paper presented to the Terrorism, Law & Democracy: How is Canada Changing following September 11? Conference, March 2002) 145 at 165. Mr. Mosley is the Assistant Deputy Minister, Criminal Law Policy and Community Justice Branch, Department of Justice Canada.

act of aiding is itself the offence regardless of the plan's outcome. However, subsection (2)(b) provides a temporal problem for the *mens rea* minimal requirement of "knowledge." How can a person knowingly facilitate a terrorist activity that has not even been foreseen, much less planned? This provision may be meant to catch those who know that they are aiding terrorists without regard for the unlawful acts that the terrorists may potentially commit. However, the *mens rea* requirement is seriously distorted by requiring knowledge of future, possible offences.⁴³

Thus, the broad definition of "facilitation," in subsection 83.19(2), which applies to all *Criminal Code* offences involving "facilitation" of terrorism, has not been moderated at all by any requirement for knowledge or intent referred to in section 83.19(1).

From a practical standpoint, organizations in Canada, whether they be charitable or for profit, could very well become involved unwittingly, in violating the *Criminal Code* in "facilitating" a "terrorist activity" without actually intending to directly or indirectly support any terrorist activity whatsoever and without knowing or even imagining the ramifications of their actions.

Canada is also in the lead in respect of director's liability for the conduct of the corporation.⁴⁴ The U.K.'s Bill 55 purports to attach liability for offences committed by corporate organizations to the corporate directors whether the offences are committed by their consent or through negligence.⁴⁵ Amendments to Canada's *Criminal Code* in 2003 through Bill C-45 attaches criminal liability on organizations, and their directors, regardless of whether the criminal conduct or act was committed by the directing mind of the corporation. The bill expanded the traditional class of representatives who could subject the corporation to liability to all persons who act on behalf of the organization.

⁴³ Eunice Machado, "A Note on the Terrorism Financing Offences" (2002) 60 U.T. Fac. L. Rev. 103 at 105.

⁴⁴ See Mervyn F. White, Bruce W. Long & Shen Goh, "Bill C-45 and its Effect on Criminal Liability and Insurance Coverage for Charities" in *Charity Law Bulletin No. 35* (30 January 2004), available www.charitylaw.ca. See also, Mervyn F. White, "Update on Bill C-45: Criminal Liability for Workplace Negligence Now in Force" in *Charity Law Bulletin No. 72* (20 July 2005), available at www.charitylaw.ca.

⁴⁵ *Supra* note 27.

G. CONCLUSION

While the world has been witness to numerous horrific events related to terrorism both before and after September 11, 2001, governments in democratic nations like Canada and the United Kingdom must diligently strive to strike the appropriate balance between protecting the safety of the nation from those who wish to do it harm, and irrevocably undermining the very values that are the underpinning the democratic societies. As Cherie Blair, wife of Prime Minister Tony Blair and a human rights lawyer, noted in an address in Malaysia, “it is all too easy for us to respond to such terror in a way which undermines commitment to our most deeply held values and convictions and which cheapens our right to call ourselves a civilised nation.”⁴⁶

⁴⁶ George Jones & Sebastien Berger, “Blairs on collision course over laws to beat terrorism” (Telegraph.co.uk, 27 July 2005).