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Kent Roach, The 9/11 Effect: Comparative Counter-Terrorism

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The 9/11 Effect: Comparative Counter-Terrorism, Kent Roach. Cambridge: Cambridge University Press, 2011, pp. 477, \$99/£57 (hardback); \$32.99/£19.99 (paperback).

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Kent Roach, professor of law at the University of Toronto, situates his study on 'The 9/11 effect' within the 'growing field of comparative and international studies of anti-terrorism law and policy' (p. 5), and does so with good reason. As an 'academic lawyer' (p. 5; his own words), he is very well equipped to examine and compare official counterterrorism responses to 9/11 in the United States, the United Kingdom, Canada, Australia, and a number of other countries in depth. As an expert, he gave testimony before many legislative commissions and is able to evaluate UN measures as well.

Other books have mapped legislative responses to terrorist atrocities since 2001 as well, most recently legal scholars like Marianne Hirsch Ballin and Laura Donohue¹ have put forward their studies on the legal frameworks in the United States and European countries too. Remarkably enough, Roach only cites a handful of recent works on counter-terrorism, and fails to provide a list of sources and literature in his book. Readers interested to know the works that inspired Roach have to extract and compile the references themselves, based on footnotes below the pages only. Notwithstanding this rather unpractical omission, Roach still has much more to offer in terms of real comparative research.

The surplus value of this book is that it indeed does what many so-called comparative studies fail to do: he really compares his country cases and categorizes them along the lines of criminal law, immigration law, regulation of speech associated with terrorism, general national security policies, and a category dubbed 'whole of government approach'.

Roach's methodology in comparing the responses is more essayist than analytical. He intends to 'write a history of the present' to 'reveal many of the forces affecting the framing and development of modern laws and policies in this case, those countering terrorism' (p. 5). Rather than using some model to identify these forces, as Maartje van der Woude (2010)² did in assessing the various

overlapping levels of political decision-making, judicial and legal norm setting in Dutch counterterrorism by adopting Kingdon's model of policy analysis, Roach relies on traditional 'thick description' of country case studies in a mixed chronological/thematic fashion. He does not really delve deep into the political decision-making processes or legal discussions and lobbies, but focuses on the outcome of new laws and measures. However, there is nothing wrong with sound case studies, and Roach does a great job.

His comparison is moreover driven by a rather disturbing thesis: Roach claims that 'differences between the responses of democracies and countries with poor human rights records to terrorism diminished in the wake of 9/11' (p. 3). In other words, a convergence can be identified between countries like the United Kingdom, the United States, and other European countries on the one hand and more authoritarian states such as Egypt or Singapore on the other.

This convergence did not only manifest itself in the first response activities undertaken by the Bush administration (the harsh interrogation methods, extraordinary rendition programmes, or extra-legal detentions), but also in the way criminal law itself has changed since 9/11. Again, this is not an entirely new assessment. Other academics, mostly criminological scientists have pointed to the 'culture of control' (Garland; Zedner),³ the phenomenon of 'governing through crime', and the preventative or precautionary turn in criminal law.

Still, from his detailed case studies we gain good insights in how counterterrorism strategies after 9/11 shifted globally into a much more unified direction than ever before. His chapter on the role played by the United Nations, both in its 'soft' manifestation (the General Assembly) and its 'hard' side (the Security Council) is highly illuminating. Roach heavily criticizes the lack of definition, the limited efficacy of the terrorism financing resolution and discards resolution 1373 as panicked global legislation, quoting insiders such as Richard Barrett himself, who served as the coordinator of the 1267 monitoring team (pp. 35–6).

Roach moreover claims counter-terrorism legislation was transferred from the United Kingdom to the rest of the United Nations and then to the rest of the world. He states that British (rather than American) counter-terrorism strategies, as developed through years of experience in the colonies and Northern Ireland, exerted major influence on global counter-terrorism responses, on UN resolutions, and especially on the regulation of speech, as part of British colonial emergency rule. Thus, the focus on international terrorism has not only allowed democracies to move closer toward a war model, as opposed to a crime model in combating terrorism, it also has fundamentally altered the nature of criminal law itself in dealing with terrorism amounting to a convergence of counter-terrorism legislation in democratic and less democratic countries.

Roach does strike a few optimistic notes: convergence in counter-terrorism legislation also means that more authoritarian countries such as Egypt and Indonesia have adapted their national security policies in a more democratic direction, and have surprisingly rejected some major expansions of state security power. The Supreme Court in Israel repudiated the idea that unlawful combatants are a valid category

under international law. And Singapore started some successful rehabilitation programmes, according to Roach.

All in all, however, mistakes still dominate the few positive lessons learned in responding to terrorism after 9/11. Roach concludes with a list of challenges, including an appeal to increase the role of courts, implement more sophisticated rehabilitation and community relations programmes, and provide more accountability instruments. For anyone lecturing on or working in the counter-terrorism domain, Roach's book therefore provides an excellent starting point on how not to respond to terrorism and how to make amends for the future.

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NOTES

1. Marianne Hirsch Ballin, *Theory and Counterterrorism Practice in the Netherlands and the United States* (Berlin: Springer, 2012); and Laura Donohue, *The Cost of Counterterrorism. Power, Politics and Liberty* (Cambridge: Cambridge University Press, 2008).
2. Maartje van der Woude, 'Wetgeving in een Veiligheidscultuur. Totstandkoming van antiterrorismewetgeving bezien van maatschappelijke en (rechts) politieke context', Doctoral thesis, Leiden University, available at <https://openaccess.leidenuniv.nl/handle/1887/16244>.
3. David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Chicago: University of Chicago Press, 2001); Lucia Zedner, *Security* (London: Routledge, 2009).