

Terrorizing Criminal Law

Lucia Zedner

© Springer Science+Business Media B.V. 2012

Abstract The essays in Waldron's *Torture, Terror, and Trade-Offs* have important implications for debates about the criminalization of terrorism and terrorism-related offences and its consequences for criminal law and criminal justice. His reflections on security speak directly to contemporary debates about the preventive role of the criminal law. And his analysis of inter-personal security trade-offs invites much closer attention to the costs of counter-terrorism policies, particularly those pursued outside the criminal process. But is Waldron right to speak of a 'welcome the return to the criminal justice model'? This article considers the arguments in favour of prioritizing the prosecution of terrorist suspects and asks if their prosecution can safely proceed without undue hazard to the criminal law and criminal process.

Keywords Criminal law · Terrorism · Counter-terrorism · Security · Civil liberties · Criminal process

Introduction

The invitation to reflect on Jeremy Waldron's *Torture, Terror, and Trade-Offs*¹ came with the suggestion to write 'with an eye on issues relevant for debates in criminal law'. It might seem odd to invite debate about the implications of this book for readers of *Criminal Law and Philosophy*. Notwithstanding its very considerable merits, about which more below, this book is not really about the criminal law—only a few direct references to the criminal law and criminal justice appear in any of its ten chapters. This is a book whose central

¹ Waldron (2010)—hereafter TTT.

L. Zedner (✉)
University of Oxford, Oxford, UK
e-mail: lucia.zedner@law.ox.ac.uk

L. Zedner
UNSW, Sydney, Australia