



## TERROR DETENTIONS AND THE RULE OF LAW US AND UK PERSPECTIVES

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### ABOUT THE AUTHOR

**Robert H. Wagstaff** practices litigation and constitutional law from his law office in Anchorage, Alaska. He successfully argued two cases before the US Supreme Court, presented over 70 appeals, and tried numerous civil and criminal cases. He recently spent ten years at Oxford University earning three post-graduate law degrees including a Doctorate. He was formerly Alaska Bar Association President, Alaska Judicial Council member, and a member of the National Board of Directors of the ACLU, New York.

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After the 9/11 terrorist attacks, the United States and the United Kingdom detained suspected terrorists in a manner incompatible with the due process, fair trial, and equality requirements of the Rule of Law. The legality of the detentions was challenged and found wanting by the highest courts in the US and UK. The US courts approached these questions as matters within the law of war, whereas the UK courts examined them within a human rights criminal law context.

In *Terror Detentions and the Rule of Law: US and UK Perspectives*, Dr. Robert Wagstaff documents President George W. Bush's and Prime Minister Tony Blair's responses to 9/11, alleging that they failed to protect the human rights of individuals suspected of terrorist activity. The analytical focus is on the four US Supreme Court decisions involving detentions in Guantanamo Bay and the four House of Lords decisions involving detentions that began in the Belmarsh Prison. These decisions are analyzed within the contexts of history, criminal law, constitutional law, human rights and international law, and various jurisprudential perspectives. Dr. Wagstaff argues that time-tested criminal law is the normatively correct and most effective means for dealing with suspected terrorists. He also suggests that preventive, indefinite detention of terrorist suspects upon suspicion of wrongdoing contravenes the domestic and international Rule of Law, treaties, and customary international law. As such, new legal paradigms for addressing terrorism are shown to be normatively invalid, illegal, unconstitutional, counter-productive, and in conflict with the Rule of Law.

**"*Terror Detentions and the Rule of Law* offers a challenging account of the history and legality of new detention and interrogation policies, raising fundamental concerns about the Rule of International Law and the prospects for effective judicial review. In this new 'age of national security' when other values are said to be trumped, this important and timely book reminds us of the crucial role of our judiciary in safeguarding the principles and values that might save us from the greatest danger: that we shall allow ourselves to become like those with whom we are coping." --Philippe Sands  
QC, Professor of Law, University College London**

