



# Defence against the Dark Arts



How the British Response to the Terrorist Threat  
is Parodied in J K Rowling's  
"Harry Potter and the Half-Blood Prince

Judith Rauhofer  
Liverpool John Moores University

# Harry Potter: an adult phenomenon



- ❑ Adult version of the latest book accounted for 15% of launch sales
- ❑ Literature or escapist fantasy?
- ❑ Accurate and to the point political and social commentary combined with a very British form of wit and irony
- ❑ Potter series as a period piece

# Parody as a subtext



- ❑ Parody as a literary concept: the imitation of another's style which one wishes to expose or ridicule
- ❑ Parody in Harry Potter: used to expose situations, values, political wrangling, power-play and a confused and morally exhausted electorate
- ❑ Commentary on creation and deterioration of "Blairite values"

# Harry Potter and Terrorism



- ❑ Harry v. Voldemort = constant battle between Good and Evil
- ❑ But also: post 9/11 paranoia and panic of the public and the ruling classes
- ❑ => correlation between anti-Voldemort measures and anti-terrorist measures adopted by the British government
- ❑ Rowling's subtle criticism: measures are in conflict with many of the original "Blairite values"

# Surveillance and Interception of Communication



*“And lastly while you’re here, The Burrow has been given the highest security the Ministry of Magic can provide. These measures have caused a certain amount of inconvenience to Arthur and Molly – all their post, for instance, is being searched at the Ministry, before being sent on. They do not mind in the slightest, their only concern is for your safety.”*

# Regulation of Investigatory Powers Act 2000



- ❑ Offence for any person to intercept at any place in the UK a communication in the course of its transmission by post or a public telecommunications system, **section 1 RIPA**
  - ❑ Minister may issue interception warrant authorising interception, **section 5 RIPA**
  - ❑ Order may require providers to provide permanent interception capability, **section 12 RIPA, powers used in 2002**
- => Fundamental switch away from reactive to proactive policing**

# Surveillance



Consequence:

- ❑ Where interception of any and all postal communications sent by a suspected criminal was impossible, interception of all electronic communication is possible as soon as someone is identified as a potential suspect.
- ❑ Individuals' right to privacy of their electronic communications is protected only to the extent that the security service are able to correctly identify potential suspects
- ❑ Investigatory Powers Tribunal not effective since most targets will never become aware of the fact that their communications have been intercepted

# Effectiveness of measure



- ❑ Justification: prevention and prosecution of criminal and terrorist offences
- ❑ Consequence: affects the private communications of innocent citizens

RIPA criticised as “snooper’s charter” which aims to provide “legal shield for existing mass surveillance techniques that had been ruled in breach of ECHR

HP: monitoring of flu network is used to prevent what is seen as “anti-ministry activities”

# Detention and Internment



*“Stanley Shunpike, conductor of the popular wizarding conveyance the Knight Bus, has been arrested on suspicion of Death Eater activity. Mr Shunpike, 21, was taken into custody last night after a raid on his Clapham home.”*

# Detention of terror subjects without trial



- ❑ DwT or “Internment” frequently used in Northern Ireland conflict under successive “Prevention of Terrorism Acts”
- ❑ ECHR case law: DwT for more than 4 days violates Art. 5 of the Convention
- ❑ UK entered a derogation under Art. 15 of the Convention

# Art. 15 (1) ECHR



Governments may:

*“in times of war or other public emergency threatening the life of the nation [...] take measures derogating from its obligations under [the] Convention to extent strictly required by the exigencies of the situation.”*

# UK Derogation



❑ Wide margin of appreciation in relation to both:

❑ Question of the presence of an emergency;  
and

❑ Nature and scope of the derogation necessary to avert it

=> UK introduced right to intern terrorist suspect in Northern Ireland without judicial oversight for up to 7 days

# Anti-Terrorism, Crime and Security Act 2001



□ Brief withdrawal of the UK derogation following the incorporation of the ECHR in UK law through the Human Rights Act in 2000

□ **BUT:** post-9/11 new legislation allowing for indefinite the detention without trial of “international terrorist suspects”, section 23 ATCSA

□ Reason: the Soering principle

# The Soering Principle



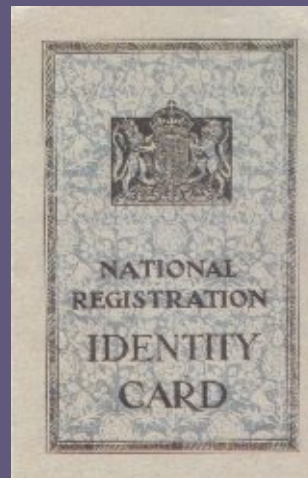
- ❑ In *Soering v. UK* and *Chahal v. UK* the ECHR established that foreign citizens suspected or convicted for having committed a crime cannot be deported to their home country, if there is a real risk that there they will be exposed to torture or inhumane treatment - violation of Art. 3 ECHR
- ❑ UK twist: in many cases security services' conviction that a person is guilty of an offence is based on information obtained by covert surveillance, which information is not admissible as evidence in criminal proceedings

# The Belmarsh Situation



- ❑ From December 2001, 14 foreign nationals were detained without trial on suspicion of terrorist offences in HM Prison Belmarsh
  - ❑ Detention was treated as an immigration measure => no judicial remedy other than complaint to Special Immigration Appeals Commission (SIAC)
  - ❑ In *A and Others v Home Secretary* SIAC ruled that detention was lawful under ATCSA and that section 23 was justified by the new Art. 15 derogation
  - ❑ However, in December 2004 House of Lords decided that section 23 ATCSA was incompatible with the HRA
- => Prisoners were released (but only in March 2005) when new system of “control orders” (allowing for imposition of house arrest and electronic tagging) were adopted

# Identity Issues



*“Agree security questions with close friends and family so as to detect Death Eaters masquerading as others by use Of Polyjuice Potion...”*

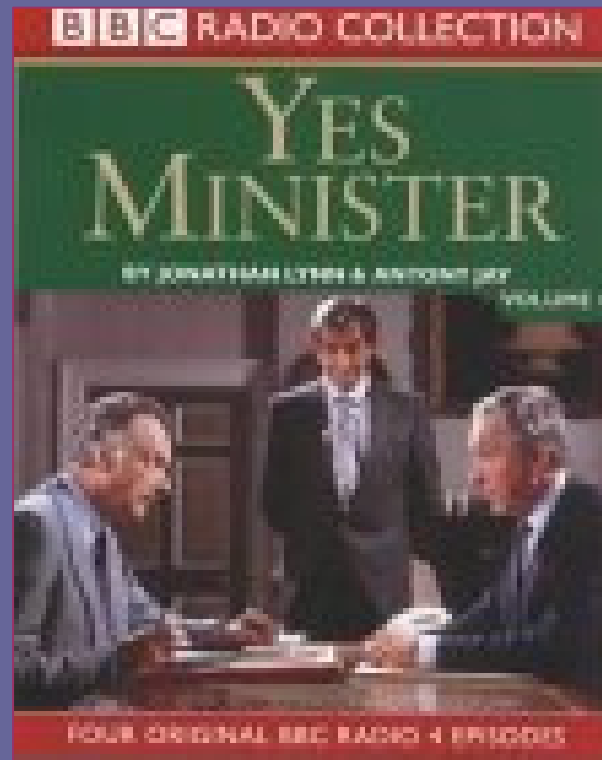
# History of ID Cards in the UK



- ❑ Requirement to carry ID cards during both World Wars, last on the basis of the National Registration Act 1939
- ❑ Rationale: need to plan for man power, rationing and population statistics
- ❑ Although need fell away after the war, ID cards remained in place until case of Willcock v. Muckle in 1951
- ❑ Although Court of Appeal conceded that Act was still legally in place it held that:

*“Because the police may have powers, it does not follow that they ought to exercise them on all occasions [...] to demand production of the card from all and sundry, [...] is wholly unreasonable. To use Acts of Parliament passed for particular purposes in wartime when the war is a thing of the past, [...] tends to turn law-abiding subjects into lawbreakers, which is a most undesirable state of affairs”*

# The “Yes Minister” Years



# The “Yes Minister” Years



□ Following the discarding of the 1939 Act there followed a period where it amounted to political suicide to attempt to introduce an ID card scheme

*“The British people do not want to carry compulsory identification papers. I’ll be accused of bringing in a police state, [...] ‘Is this what we fought two world wars for?’ I can hear the backbenchers cry.”*

“Yes Minister – 1<sup>st</sup> series – “The Writing on the Wall”

# The Blair Position



*“We all suffer crime, the poorest and vulnerable most of all, it is the duty of government to protect them. But we can make choices in spending too. And instead of wasting hundreds of millions of pounds on compulsory ID cards as the Tory Right demand, let that money provide thousands of extra police officers on the beat in our local communities”*

**Tony Blair in a speech to the 1995 Labour conference in Brighton**

# The 2004/2005 ID Card Bill



- ❑ **July 2002: publication of consultation paper “Entitlement Cards and Identity Fraud”**
- ❑ **April 2004: Consultation on proposed legislation (now also requiring biometric data)**
- ❑ **November 2005: publication of Identity Card Bill**
- ❑ **March 2006: adoption of Identity Card Act 2006**

# The National Database



- ❑ The Act will establish a National Database including “registrable facts” about every ID card holder
- ❑ Registrable facts: name, date and place of birth, nationality, immigration status, address and physical characteristics (incl. biometrics)
- ❑ Registration will be “voluntary” for them time being unless one applies for a ‘designated document’ (including a passport)
- ❑ It is expected that over time all government organisations and agencies will have access to the information held in the database and that through inter-governmental ‘data-sharing’ the information held will grow.

# Effectiveness as an anti-terrorist measure



- ❑ Charles Clarke admitted after London bombings that ID cards would not have prevented the attacks , BUT: Home Office website still claims they are necessary for prevention of terrorism
- ❑ Biometric system, in particular, is a “brittle security system” that fails badly => if your biometrics get stolen once the system will fail permanently
- ❑ National database information will only be useful in the fight against terrorism, if it can be compared to a “database of bad guys” => there is no such database which is not also filled with the names of innocent people

# Security Theatre



*“They probably want to look as if they are doing something,”  
Said Hermione, frowning. “People are terrified [...].”*

# “Preparing for Emergencies”



- ❑ Government takes very public steps to reassure the public
- ❑ Distribution of leaflet [“Preparing for emergencies – what you need to know”](#) to all UK households
- ❑ Bruce Schneier: measures which provide the feeling of security rather than real security are only “security theatre” and “palliative at best”
- ❑ Security theatre can actively compromise real security when it uses up valuable resources, both human and financial
- ❑ Example: ID cards and “bobbies on the beat”
- ❑ At the same time: ineffective security measures affect rights and liberties of ordinary people

*“The decision to make sacrifices of liberty to power will be made by those who benefit from them, not by those who have to make them”*

*Colin Warbrick, 2004*

# Civil Measures



*“I warned Sirius when we adopted twelve Grimmauld Place as our headquarters that Kreacher must be treated with kindness and respect. I also told him that Kreacher could be dangerous to us. I do not think that Sirius took me very seriously, or that he ever saw Kreacher as a being with feelings as acute as a human’s [...]. ‘Kreacher is what he has been made by wizards, Harry’, said Dumbledore. ‘Yes, he is to be pitied.’”*

# Civil Measures



- ❑ Reaction of “old Europe” to 9/11: “prevention strategy” underlining importance of non-military measures to combat international terrorism, including increase in development aid and greater international cooperation
- ❑ “Coalition of the willing”: “war on terror”
- ❑ Franchised terror v. disenfranchised terror
- ❑ Failure to adhere to international human rights norms makes it easier for terrorist organisations to recruit
- ❑ In an asymmetric conflict, the terrorist cannot destroy western polities, but they may be able to provoke western polities to destroy their own spirits (Clive Walker)

# Conclusion



- There are significant parallels between the response of the British government to the terrorist threat and the way in which Rowling portrays the fight of the wizarding community against Lord Voldemort
- Not a roman à clef, but she captures “the spirit rather than the letter of life in these troubled times” (J.Taylor)

# Thank You

