All indications are that the prevention of terrorism will be one of the major tasks of governments and regional and international organizations for some time to come. In response to the globalized nature of terrorism, anti-terrorism law and policy have become matters of global concern. Anti-terrorism law crosses boundaries between states and between domestic, regional and international law. It also crosses traditional disciplinary boundaries between administrative, constitutional, criminal, immigration and military law, and the law of war. This collection is designed to contribute to the growing field of comparative and international studies of anti-terrorism law and policy. A particular feature of this collection is the combination of chapters that focus on a particular country or region in the Americas, Europe, Africa and Asia, and overarching thematic chapters that take a comparative approach to particular aspects of anti-terrorism law and policy, including international, constitutional, immigration, privacy, maritime, aviation, and financial law.

VICTOR V. RAMRAJ is an Associate Professor at the Faculty of Law, National University of Singapore (NUS). His main areas of teaching and research are anti-terrorism law and policy, legal theory, criminal law and theory, and constitutional law. Before joining the NUS Faculty of Law in 1998, he served as a judicial law clerk at the Federal Court of Appeal in Ottawa and as a litigation lawyer in Toronto. He has published widely in anti-terrorism law, criminal law and constitutional law.

MICHAEL HOR is a Professor at the Faculty of Law, National University of Singapore. He is a former Magistrate of the Subordinate Court of Singapore and has been Chief Editor of the Singapore Journal of Legal Studies. He is a Member of the Criminal Practice Committee of the Law Society of Singapore.

KENT ROACH is a Professor of Law at the University of Toronto. He has appeared before the Canadian Senate and Indonesia’s working group on anti-terrorism law. He co-taught an innovative seminar at the University
of Toronto on Comparative Anti-Terrorism Law and Policy, and has been a special lecturer at the National University of Singapore, the University of Siena and New York University on comparative anti-terrorism law. He has written eight books and over eighty articles published in a wide variety of countries.
## CONTENTS

<table>
<thead>
<tr>
<th>List of contributors</th>
<th>ix</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acknowledgements</td>
<td>xi</td>
</tr>
<tr>
<td>1 Introduction</td>
<td></td>
</tr>
<tr>
<td>Victor V. Ramraj, Michael Hor and Kent Roach</td>
<td>1</td>
</tr>
</tbody>
</table>

### PART ONE: Theoretical Perspectives on Anti-Terrorism Law and Policy

<table>
<thead>
<tr>
<th>2</th>
<th>Terrorism and the counter-terrorist discourse</th>
<th>13</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>The question of a generic definition of terrorism under general international law</td>
<td>37</td>
</tr>
<tr>
<td>4</td>
<td>The state of emergency in legal theory</td>
<td>65</td>
</tr>
<tr>
<td>5</td>
<td>Stability and flexibility: a Dicey business</td>
<td>90</td>
</tr>
<tr>
<td>6</td>
<td>Terrorism, risk perception and judicial review</td>
<td>107</td>
</tr>
</tbody>
</table>

### PART TWO: A Comparative Study of Anti-Terrorism Measures

<table>
<thead>
<tr>
<th>7</th>
<th>The criminal law and terrorism</th>
<th>129</th>
</tr>
</thead>
<tbody>
<tr>
<td>Page</td>
<td>Title</td>
<td>Author</td>
</tr>
<tr>
<td>------</td>
<td>----------------------------------------------------------------------</td>
<td>---------------------------------------------</td>
</tr>
<tr>
<td>8</td>
<td>And fairness for all? Asylum, national security and the rule of law</td>
<td>Colin Harvey</td>
</tr>
<tr>
<td>9</td>
<td>The financial war on terrorism</td>
<td>Kevin E. Davis</td>
</tr>
<tr>
<td>10</td>
<td>Terrorism and technology: policy challenges and current responses</td>
<td>Mary W. S. Wong</td>
</tr>
<tr>
<td>11</td>
<td>Recent developments relating to terrorism and aviation security</td>
<td>Alan Khee-jin Tan</td>
</tr>
<tr>
<td>12</td>
<td>International responses to combat maritime terrorism</td>
<td>Robert C. Beckman</td>
</tr>
</tbody>
</table>

**PART THREE**

**Anti-Terrorism Law and Policy in Asia**

<table>
<thead>
<tr>
<th>Page</th>
<th>Title</th>
<th>Author</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>Law and terror: Singapore stories and Malaysian dilemmas</td>
<td>Michael Hor</td>
<td>273</td>
</tr>
<tr>
<td>14</td>
<td>Indonesia’s Anti-Terrorism Law</td>
<td>Hikmahanto Juwana</td>
<td>295</td>
</tr>
<tr>
<td>15</td>
<td>The Philippines: the weakest link in the fight against terrorism?</td>
<td>H. Harry L. Roque, Jr.</td>
<td>307</td>
</tr>
<tr>
<td>16</td>
<td>Japan’s response to terrorism post-9/11</td>
<td>Mark Fenwick</td>
<td>327</td>
</tr>
<tr>
<td>17</td>
<td>Legal and institutional responses to terrorism in India</td>
<td>V. Vijayakumar</td>
<td>351</td>
</tr>
<tr>
<td>18</td>
<td>Enacting security laws in Hong Kong</td>
<td>Simon N. M. Young</td>
<td>368</td>
</tr>
</tbody>
</table>
### Regional Cooperation

19 Southeast Asian cooperation on anti-terrorism: the dynamics and limits of regional responses  
*Simon S. C. Tay and Tan Hsien Li*  
399

20 Anti-terrorism law and policy: the case of the European Union  
*Jörg Monar*  
425

### Anti-Terrorism Law and Policy in the West

21 Legislative over-breadth, democratic failure and the judicial response: fundamental rights and the UK’s anti-terrorist legal policy  
*Helen Fenwick and Gavin Phillipson*  
455

22 United States responses to September 11  
*William C. Banks*  
490

23 Canada’s response to terrorism  
*Kent Roach*  
511

24 The rule of law and the regulation of terrorism in Australia and New Zealand  
*George Williams*  
534

### Anti-Terrorism Measures in Africa, the Middle East and Argentina

25 Terrorism and governance in South Africa and Eastern Africa  
*C. H. Powell*  
555

26 Rocks, hard places and human rights: anti-terrorism law and policy in Arab states  
*Lynn Welchman*  
581
Contents

27  Terrorism in Argentina: government as its own worst enemy
    William C. Banks and Alejandro D. Carrió 609

28  Postscript: Some recent developments
    Victor V. Ramraj, Michael Hor and Kent Roach 625

Index 635
CONTRIBUTORS

WILLIAM C. BANKS, Laura J. and L. Douglas Meredith Professor, Syracuse University College of Law; Professor of Public Administration, Maxwell School of Citizenship and Public Affairs, Syracuse University

ROBERT C. BECKMAN, Associate Professor, Faculty of Law, National University of Singapore

ALEJANDRO D. CARRIÓN, Visiting Professor of Law, Louisiana State University and Professor of Law at Palermo University

KEVIN E. DAVIS, Professor of Law, New York University School of Law

LAURA K. DONOHUE, Center for International Security and Cooperation, Stanford Institute for International Studies, Stanford University

DAVID DYZENHAUS, Professor of Law and Philosophy, University of Toronto

MARK FENWICK, Associate Professor, Faculty of Law, University of Kyushu

HELEN FENWICK, Professor in Law, Human Rights Centre, Department of Law, University of Durham

OREN GROSS, Julius E. Davis Professor of Law and Director, Center for Legal Studies, University of Minnesota Law School

COLIN HARVEY, Professor of Human Rights Law, School of Law, Queen’s University Belfast

MICHAEL HOR, Professor, Faculty of Law, National University of Singapore

HIKMAHANTO JUWANA, Dean and Professor of Law, University of Indonesia

C. L. LIM, Associate Professor, Faculty of Law, National University of Singapore

JÖRG MONAR, Professor of Contemporary Studies and Jean Monnet Professor, Sussex European Institute, University of Sussex

GAVIN PHILLIPSON, Senior Lecturer in Law, Human Rights Centre, Department of Law, University of Durham
LIST OF CONTRIBUTORS

C.H. POWELL, Senior Lecturer, Faculty of Law, University of Cape Town

VICTOR V. RAMRAJ, Associate Professor, Faculty of Law, National University of Singapore

KENT ROACH, Professor of Law, University of Toronto

H. HARRY L. ROQUE, JR., Assistant Professor, University of the Philippines College of Law

ALAN KHEE-JIN TAN, Associate Professor, Faculty of Law, National University of Singapore

TAN HSIEN LI, Ph.D. Candidate, Faculty of Law, National University of Singapore and Associate Researcher, Singapore Institute of International Affairs

SIMON S. C. TAY, Associate Professor, Faculty of Law, National University of Singapore and Chairman of the Singapore Institute of International Affairs

V. VIJAYAKUMAR, Professor of Law, National Law School of India University

LYNN WELCHMAN, Senior Lecturer in Islamic and Middle Eastern Law, Department of Law, SOAS, University of London

GEORGE WILLIAMS, Anthony Mason Professor and Director, Gilbert + Tobin Centre of Public Law, Faculty of Law, University of New South Wales

MARY W.S. WONG, Professor of Law, Franklin Pierce Law Centre, former Associate Professor of Law, Singapore Management University

SIMON N.M. YOUNG, Assistant Professor, Faculty of Law, University of Hong Kong
ACKNOWLEDGEMENTS

We owe an enormous debt of gratitude to R. Rueban Balasubramaniam, Sandra A. Booysen, Meyghan McCrea, Ng Pei Suin, Paul Tan, Paul Seah, and especially to Tecla Mapota, Abhinav Bhatt and Elizabeth Chua for their hard work on and dedication to this project. We are grateful to the Faculties of Law at the National University of Singapore and University of Toronto and their respective Deans, Tan Cheng Han and Ronald J. Daniels, for funding that allowed the editors to work together over a number of years in preparing this volume and this introduction. We are also extremely grateful to the National University of Singapore for providing the generous grant which made this book and the symposium that inspired it possible.