Wiley Series on Homeland Defense and Security

Ted G. Lewis, Series Editor

NADAV MORAG

SECOND EDITION

COMPARATIVE HOMELAND SECURITY

GLOBAL LESSONS

WILEY

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WILEY SERIES ON HOMELAND DEFENSE AND SECURITY

Series Editor

TED G. LEWIS Professor, Naval Postgraduate School

Foundations of Homeland Security: Law and Policy/Marin J. Alperen, Esq.

Comparative Homeland Security: Global Lessons/Nadav Morag

Biological Weapons: Recognizing, Understanding, and Responding to the Threat / Kristy Young Johnson, Paul Matthew Nolan

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PREFACE TO THE SECOND EDITION

The first edition of this book was published in late 2011. As the reader can imagine, much has changed since then in the homeland security enterprise. Over the last six years or so, the world has seen the rise and fall of the so-called Islamic State; a massive influx of migrants to Europe causing crises in the Schengen Area and European Union (EU) (and playing a role in precipitating the British decision to leave the EU); an epic natural disaster in Japan; an Ebola outbreak that moved significantly beyond the confines of previous outbreaks; group and individual terrorist attacks using bombs, firearms, knives, and motor vehicles; Russian and Chinese hacking and cyberespionage; major natural disasters in the United States; and a range of other homeland security challenges. These challenges and the natural evolution of laws and policies have necessitated the writing of a second edition to reflect many of these changes. This edition also delves into cybersecurity policy issues, an area that has been growing exponentially but was not touched on in the first edition.

I have also endeavored to make this book more useful as a guide, not only to students but also to those involved in the policymaking process, by including more sidebars in the chapters with cases, policy language, and other vignettes of information that may help generate policy ideas. Overall, while the book has been updated and I have brought in new content to make the book slightly more comprehensive, the previous chapter structure and format has been maintained.

PREFACE TO THE FIRST EDITION

This book is designed primarily as a textbook for students of the emerging academic and practitioner discipline of homeland security. While no universally accepted definition of homeland security exists at present (or is likely to ever exist), the introductory chapter of this book will posit a working definition around which the book's chapters are organized. This book is not designed to be an introductory text for students of homeland security as there are a number of these. Instead, this book is designed to serve as a text and resource for a subfield within the discipline of homeland security, that of "Comparative Homeland Security." This subfield is chiefly concerned with analyzing and understanding the homeland security policies followed outside the United States (homeland security is a quintessentially American concept, as will be explained in the Introduction to this book). *Comparative Homeland Security* accordingly mirrors the various subject areas within the broader field of homeland security, and hence this book will touch upon most (or all, depending on one's definition of homeland security) of these issue-areas.

This book has several flaws, and there is little point in trying to conceal them now as the reader will discover them soon enough. The first, and chief, flaw is a lack of comprehensiveness. This book does not even begin to scratch the surface of the subfield of Comparative Homeland Security. As will be noted in the Introduction to this book, the field of homeland security is extremely broad and covers issues as diverse as counterterrorism, law enforcement, emergency management and response, public health, strategic communications, and a host of other public policy issues. Adequate treatment of this topic solely within the American context would require, at a minimum, a shelf-load of books, and doing so in the context of the handful of foreign countries addressed in this book would require several shelf-loads of books. Accordingly, it is not the author's intent to be comprehensive because comprehensiveness requires far more space than is available here.

Moreover, aside from space issues, comprehensiveness is not really possible at this stage in the development of this subfield because only a small percentage of the information needed to address this issue in a truly thorough manner is publically accessible.

Researchers who focus on homeland security strategies and policies in the domestic American context often do not have access to the materials that they need because these are either classified or otherwise held close and not made publically available or, in some cases, are unwritten and can only be accessed through identifying the appropriate persons and obtaining their acquiescence to be interviewed. Nevertheless, a surprising amount of material is available in the public sphere as many organizations and agencies produce reports, analyses, strategy papers, and other types of documentation, and there is also a growing body of academic studies in the field. Consequently, while researchers of domestic homeland security policy will often come up empty when looking for documentation on which to base their research, they also enjoy an extensive and expanding pool of materials with which to work.

The researcher interested in exploring the homeland security policies of other nations, however, is in a position of comparative disadvantage. This is because not all countries of interest tend to follow the American approach of, by and large, making strategy and policy publically available as a way of ensuring governmental accountability to the public. Granted, materials produced by governmental agencies for public consumption are sanitized and always designed to portray the agency in question in as favorable a light as possible (many have photos of smiling agency personnel and members of the public embellishing the document). Nevertheless, much can still be learned from them if one "reads between the lines" and triangulates this information with data from other sources. In addition, academic studies and documents produced by various assessment entities (public and private) often provide a more critical take on policies. The culture of public accountability is quite strong in the United States and is shared by some countries of interest in this text including the United Kingdom, Canada, Australia, and, in some cases, Germany, and consequently these countries offer greater access to information about policy. In other cases, such as Israel, France, and Italy, there is little of the culture of public accountability, and consequently far fewer materials are available to the public because there is less of a sense that the public has the "need to know."

In addition to the absence of materials with respect to many countries, there is also a linguistic barrier to the comprehensive study of homeland security policies overseas. An all-inclusive study of the publically available materials in the handful of countries dealt with in this book would require

the researcher to be fluent not only in English but also in Hebrew, French, German, Italian, Dutch, and Japanese. Perhaps a few lucky (and brilliant!) individuals with this linguistic repertoire can be found somewhere, but the author is definitely not among them (having true command of only a paltry two of these), and thus some documentation could not be analyzed. Consequently, this is somewhat similar to the story of the man who is found attentively searching for his car keys underneath a streetlight in the middle of the night. When asked where he dropped the keys, he points to his car, shrouded in the darkness, down the street. When subsequently asked why he is searching for his car keys near the streetlight when he dropped them near his car, he replies: "because this is where the light is."

A second flaw in this book has to do with the absence of a strong methodology for comparing policies and strategies across countries. Most works that deal with comparative analysis in fields and subfields such as comparative politics, comparative public health, comparative policing, etc., do not integrate the data and analyze it but rather lay out different policies (followed by different nations or jurisdictions within a nation) side by side – though this methodology does help increase understanding of how and why things are done in different contexts (such as countries) through comparing and contrasting. As this is an introductory text designed to introduce the reader to the subfield of Comparative Homeland Security, the goal here is not to produce a theoretical tome that will solve the problem of the absence of a good comparativist methodology that truly integrates data and analysis. Nevertheless, by breaking the book down by issue-areas within homeland security and then looking at the approaches of different countries in those contexts, the author has attempted to at least take one step in the direction of some sort of integrative approach to comparing across countries. A true comparative study will have to await the development of a strong methodological tool.

A final flaw (and one would hope that this is, indeed, the final flaw) in this book is that some of the data provided to the reader may be inaccurate. This is chiefly for two reasons: Firstly, Comparative Homeland Security is a very dynamic field with homeland security laws, policies, and strategies overseas constantly evolving, and while the author has attempted to provide as much up-to-date information as possible, changes are constantly occurring and no book in this area can be 100% current. Secondly, policy and strategy, as expressed in documents and briefings, is not necessarily what really happens. In order to understand what really happens, a researcher has to have worked in the various areas within homeland security in a senior capacity (in order to have a good overall view of policy and strategy) in all of the countries touched upon in this book, and he/she

needs to simultaneously continue working for all of these agencies in all of these countries to make sure that the knowledge that they have is indeed still relevant. Perhaps this is possible if, as some quantum mechanics physicists suggest, there are infinite parallel universes, but that is of no help.

There you have it, dear reader: A book with partial and, in some cases, dated information and the absence of a powerful methodological tool. Nevertheless, this book will provide you with a strong grounding and basic understanding of the emerging subdiscipline of Comparative Homeland Security. Since comprehensiveness is not an option, the focus here is on providing vignettes of information that are interesting and useful, and consequently each chapter touches on a different mix of countries and different sets of issues. Hopefully, this book will stimulate your interest in this field and encourage you to look outside your national borders (this book is written primarily for an American audience but will hopefully be of use to others as well) for answers to homeland security problems. The more policymakers and practitioners in different countries can learn from each other's strategies and approaches, the greater will be the shared pool of knowledge, and this knowledge will ultimately make people safer. That is reason enough to study Comparative Homeland Security.

INTRODUCTION

Studying Homeland Security Policies Followed by Other Countries

WHAT IS HOMELAND SECURITY?

Homeland security is a uniquely American concept. While a number of other countries around the world have employed the term since its entrance into common usage in the wake of the monstrous terrorist attacks against the World Trade Center and Pentagon on 11 September 2001, they have done so essentially because they were following America's lead. Despite the fact that many such countries have partially adopted the term, they have yet to really internalize the emerging discipline of homeland security in the way that it is being understood and applied in the United States. Of course, disciplines, both in terms of their practitioner and academic components, take several decades at a minimum in order to become fully developed and accepted, and consequently, it is no surprise that homeland security is still evolving and that there are a wide range of definitions for this discipline. It is not the purpose of this volume to provide a definitive definition of homeland security but rather to focus on the approaches and policies followed by a select group of countries *within the realm* of homeland security. However, in order to do this, we must begin with some sort of baseline working definition in order to determine which types of overseas policies should be surveyed and which should not.

As homeland security is an American concept, there is some logic in turning to the premier homeland security strategy document, the *National Strategy for Homeland Security*, a revised version of which was issued by then President George W. Bush and his Homeland Security Council in

Comparative Homeland Security: Global Lessons, Second Edition. Nadav Morag.

Figure I.1 Twin Towers on 9/11. Credit: Ken Tannenabaum/Shutterstock.com.

October 2007, in order to shed some light on the concept. According to the *National Strategy*, homeland security is defined as "…a concerted national effort to prevent terrorist attacks within the United States, reduce America's vulnerability to terrorism, and minimize the damage and recover from the attacks that do occur" (Bush, 2007, p. 3). Based on this definition, homeland security would appear to essentially be focused on counterterrorism and thus recognizable overseas as a "national strategy for counterterrorism." Indeed, the British government issued just such a strategy in 2006 (revised in 2009 and 2011), known as *Countering International Terrorism: The United Kingdom's Strategy*, which will be discussed in Chapter 1.

All the countries surveyed in this work have either written strategies or unwritten approaches to dealing with terrorism, and hence, in this context, the United States would appear to be just another country with just another counterterrorism strategy. Indeed, in the wake of 9/11, homeland security may have indeed been viewed by many as an alternative term for counterterrorism. Nevertheless, on page 6 of the *National Strategy*, it is noted that preparedness in a homeland security context also requires coping with "…future

catastrophes – natural and man-made…" (Bush, 2007, p. 6), and page 10 of the document notes that catastrophic natural disasters and public health emergencies are part of the homeland security threat menu (Bush, 2007, p. 10). The *National Strategy* goes on to refer to a broad range of other policy issues including transportation security, policing, border security, critical infrastructure protection, countering radicalization, and cybersecurity, to mention a few. Looking at this document as a central reference point and viewing it holistically thus suggests that homeland security, as interpreted by the leadership of the executive branch of government in the United States, is an extremely broad field. It seems to involve most threats to the stability and normal operation of government and society at local, state, and/or federal levels of government – perhaps barring strictly economic threats such as the collapse of the stock market or consumer spending, the breakdown of credit markets, and other such issues that are not necessarily directly brought about by disasters, health emergencies, or terrorism. This does not, of course, imply that the federal government has a monopoly on knowledge and understanding and is thus able to define homeland security in an unambiguous and correct manner. However, given the absence of a universally agreed-upon definition, using the broad definition developed by the federal government represents a reasonable typological compromise in view of the central role played by the federal government in defining homeland security policy and in executing it at the federal level, as well as funding a wide variety of homeland security-related activities at the state and local levels.

Figure I.2 Agency patches. Credit: Kevin Connors/Shutterstock.com.

In terms of actual policies and institutions, one of the most important outcomes of the *National Strategy* and a slew of other federal strategy documents that have been produced and updated over the years since 2001 is the creation of homeland security agencies (or homeland security functions within existing agencies) at all levels of American government. The most significant of these institutional changes was, naturally, the creation of the Department of Homeland Security (DHS) in November of 2002 – though a much smaller Office of Homeland Security and a Homeland Security Council (modeled on the National Security Council) had been in existence previously and were established by presidential executive order in October 2001. Thus, in order to help define homeland security, and in addition to looking at the *National Strategy*, one can also look at the policy areas for which DHS is responsible as DHS is the principle federal agency with homeland security duties. On 6 June 2002, then President George W. Bush, in an address to the nation, outlined the four essential missions of the newly proposed DHS: (i) border and transportation security, (ii) emergency preparedness and response, (iii) coping with the threat of weapons of mass destruction, and (iv) intelligence gathering and analysis designed to create an integrated intelligence picture (DHS, 2008, p. 5). These missions have evolved to some degree since then. DHS defines its current missions as (i) preventing terrorism and enhancing security, (ii) securing and managing US borders, (iii) immigration, (iv) cybersecurity, and (v) disaster preparedness (DHS, 2016). Without getting into a survey of the convoluted process of organization and reorganization in DHS and the evolution of DHS missions and areas of responsibility since the creation of this mammoth Department (the largest, by employee numbers, in the federal government after the Department of Defense and Department of Veterans Affairs), suffice to say that the current mission priorities of DHS, based on the Department's strategic plan for fiscal years 2014–2018, and falling within the five missions noted above, include (i) preventing terrorist travel, strengthening aviation security, preventing the smuggling and use of nuclear weapons and materials, and protecting key leaders, facilities, and events; (ii) securing the US southern border and combatting international organized crime; (iii) strengthening the immigration system (to include combatting immigration fraud and enhancing detention and removal efforts); (iv) reducing cyber risk and enhancing critical infrastructure resilience, both physical and cyber related; and (v) enhancing preparedness and response to threats and hazards (DHS, 2014a, pp. 6–20).

In view of the above, and without attempting to produce a perfect and definitive definition of homeland security, a *functional* categorization of the

policy areas that fall within the sphere of homeland security, based on the DHS's *2014 Quadrennial Homeland Security Review*, may appear as follows:

- Policies directed at mitigating the threat of terrorism and large-scale criminality (of the type that threatens social and economic stability), to include:
  - Counterterrorism strategy.
  - Intelligence sharing and coordination.
  - Policing strategies.
  - Countering homegrown radicalization.
- Policies directed at enhancing security measures, to include:
  - Border security and immigration enforcement.
  - Transportation security (air, maritime, and surface).
  - Critical infrastructure protection (including cooperation between the private and public sectors).
  - Cybersecurity.
- Policies directed at management of the immediate and long-term effects of acts of terrorism, natural disasters, and/or public health emergencies, to include:
  - Emergency and disaster preparedness and response.
  - Mitigating, responding, and recovering from biological threats.
  - Development of political, social, and economic resiliency (DHS, 2014b, pp. 76–80).

Needless to say, these areas include a great deal of overlap, and all of them require the sharing of information, interagency and intra-agency cooperation, and interface with the public. While the above listing of policy areas is no doubt imperfect, it does have the advantage of, more or less, covering those areas viewed in various governmental strategy papers and academic studies as part of homeland security, and these areas will, accordingly, be addressed in this book in differing degrees of detail with respect to approaches taken to them outside the United States (based on the availability of information and space for analysis).

While we may view the above policy areas as constituting the field of homeland security in the United States, one would be hard pressed to find any similar amalgamation of what would appear to be very disparate policy domains in the rest of the world. Counterterrorism and security and crisis management, broadly speaking, are not seen as part of the same discipline overseas, and there certainly is nothing equivalent to DHS in

trying to bring together these policy areas under one institutional framework (the Australians briefly toyed with the idea of creating their own version of DHS and then decided against it). Of course, there are long-standing cooperative relationships between intelligence agencies and police or between police and fire and emergency medical services since many challenges require a multidisciplinary response, but no one overseas has attempted to put so many different functions and activities within the same rubric and argue that they are all part of the same type of public policy issue.

HOMELAND SECURITY VERSUS NATIONAL SECURITY

The concept of homeland security is uniquely American largely because most other democratic countries do not distinguish as clearly between what in the United States might be colloquially referred to as the "home game" versus the "away game." Historically, the United States benefitted from its geographic isolation far from the wars and political machinations of the leading powers on the European and Asian continents. Consequently, there gradually developed a view that there was a distinct separation between domestic and international challenges, and policies (and their attendant institutions) employed overseas were largely irrelevant domestically and vice versa, As the United States came to play a very large role on the world stage in the wake of the Second World War, the concept of national security, and its attendant institutions including the Department of Defense, the Central Intelligence Agency, the National Security Council, and the National Security Agency, developed apace. The goal of national security policy was to protect and enhance the various elements of national power (military, diplomatic, economic, etc.) and to safeguard national interests overseas.

Since much of the development of the concept of national security occurred in the context of the Cold War, it is not surprising that the discipline of national security was focused on the Soviet threat and ensuring that the United States was able to contain and deter Soviet ambitions and actions worldwide. Many of the tools employed in safeguarding national security – warfighting, espionage, paying off allies and potential allies, disinformation campaigns, occasional assassination, and other measures – were seen as necessary and legitimate policies for use overseas but certainly fundamentally contrary to American laws and values in a domestic context. Consequently, apart from counterespionage operations and other limited spillovers into the domestic arena, national security was essentially an overseas endeavor.

Figure I.3 Soviet ICBM. Credit: US Department of Defense/Wikimedia Commons.

With the effective ending of the Cold War in 1989 and the collapse of the Soviet Union in December 1991, threats to national security were transformed and diminished. While countries such as North Korea, Iraq under Saddam Hussein, and Iran (the states constituting George Bush's "axis of evil") were still problems (and, of course, the United States would go to war against Iraq in 2003) and while the rise of China and the resurgence of Russia were to pose ongoing challenges, the pervasive sense of fear of Soviet encroachment (and Soviet nuclear missiles) that propelled national security to the top of the governmental agenda came to an end with the faltering and then collapse of the Soviet empire. At the same time, new threats were developing of which, at least for a time, the primary one was to become that of international terrorism.

Terrorism, however, is a very different kind of threat both in terms of scope and *modus operandi*. Terrorists, of course, cannot command the elements of national power and thus do not constitute anything remotely similar to an advanced, capable, and belligerent nation-state. Nevertheless, with the advancement of the military technology and the global media, terrorist groups were increasingly in a position to effectively attack vulnerable targets and populations and to create the impression that they are almost as

Figure I.4 A propaganda poster found by US special operations forces in Afghanistan. Credit: US Department of Defense/Wikimedia Commons.

dangerous and threatening as the Soviet Union once was. Since, in public affairs, impressions are more important than reality as people act based on their impressions (whether or not those impressions strictly conform to reality), terrorists are well placed to transform themselves into being perceived as major threats to the security of the United States, even though, in terms of the power that they were able to wield, they really do not deserve to be viewed in such a way. Impressions may motivate people's actions, but they cannot magically transform terrorists from relatively weak actors into global superpowers. Consequently, terrorists must generally infiltrate their target societies in one manner or another and then strike at relatively undefended and vulnerable targets (usually those that involve public access of some sort) in order to create the impression of power. This means that, at least in democratic countries, the terrorist threat cannot be addressed using exactly the same policies and institutions that are employed against national security threats outside the country's borders. Arguably nowhere is this distinction starker than in the United States with its long traditions of keeping the military and intelligence agencies largely out of domestic affairs. Consequently, in dealing with terrorist threats within American territory, a new concept and approach seemed to be needed, that of homeland security.

After the shock of 9/11 began to gradually abate, the United States was hit in 2005 with a massive natural disaster in the form of Hurricane Katrina. In the wake of what was perceived as the impotence of governmental entities at the local, state, and federal levels in preparing for the hurricane and dealing with its aftermath, the concept of homeland security evolved and began focusing on natural disasters in addition to the man-made variety. There is, of course, some logic to viewing the threat from terrorism and that of natural disasters or pandemics as part of the same discipline. After all, many of the measures instituted to prepare for and recover from the aftermath of emergencies can be applied to terrorist threats, natural disasters, and public health threats. Also, many of the preventive techniques are also common to coping with all three categories of threats (for example, intelligence gathering, analysis, and dissemination are critical elements of prevention regardless of whether the information pertains to the activities of a terrorist cell, a hurricane moving toward shore, or the spread of a pandemic). Moreover, if one is to consider terrorism a major threat to the lives and livelihoods of Americans, natural disasters and pandemics certainly qualify as threats that are equally serious, if not more so (particularly in the case of a pandemic outbreak that may kill millions and bring about the collapse of the health system). Perhaps other countries did not evolve toward developing

Figure I.5 New Orleans after Katrina. Credit: US Navy/Wikimedia Commons.

a concept of homeland security because they did not view national security as almost exclusively focused overseas and ending at the national borders and because, for many other democracies (Canada perhaps being a partial exception), large-scale natural disasters are simply not as common or as threatening as in the case of the United States.

The above are, at least to some degree, philosophical musings regarding the concepts of national security and homeland security (though the reader should bear in mind that philosophical musings are usually the first step and basis for strategic policymaking). The upshot is that homeland security is a concept and discipline that is of American origin and still largely alien to the rest of the world (even if they may use the term to describe counterterrorism policy). The reader may thus inquire as to the utility of a book that focuses on international homeland security policies if homeland security does not technically exist internationally, at least not as a discipline. The answer to this is that while homeland security as a discipline is alien to other countries, there is a wealth experience and tested policies and approaches employed overseas in the various areas that constitute homeland security, and it would not make sense for Americans to remain blissfully unaware of them. Reinventing the wheel and repeating the mistakes of others are activities that are both wasteful and counterproductive.

INTERNATIONAL COMPARATIVE HOMELAND SECURITY

Learning from other countries' experiences and approaches is important not only because it makes sense for American decision makers to learn from the experiences of foreign governments but also because in many cases, the threats are transnational, and consequently while homeland security is a fundamentally domestic concept, safeguarding it requires cooperation with other countries. Whether the threat emanates from radicalized Europeans accessing the United States under the Visa Waiver Program in order to execute terrorist attacks or aircraft passengers flying in to the United States from an Asian city carrying the latest viral or bacterial pandemic with them, many homeland security threats emanate from abroad. Examples of such threats abound. In the terrorism sphere, in addition to the 9/11 attackers, Ahmed Resam (the "millennium bomber"), arrested in 1999, used Canada as a staging area for his plot to bomb the Los Angeles International Airport, and Richard Reid (the "shoe bomber") boarded a Miami-bound flight in Paris in December 2001. In addition, the 2006 transatlantic liquid explosives plot (the "Overt Plot") was hatched and prepared in the United Kingdom, and Umar Farouk Abdulmutallab (the "underwear bomber" or "Christmas bomber") boarded his Detroit-bound flight in Amsterdam in December 2009.

The spillover of Mexican criminal violence into the United States has also been an issue of concern for some time. In the public health sphere, the SARS outbreak in China led to some outbreaks in the United States with the public health system being put on alert in December 2003, and the outbreaks of avian influenza and swine flu in Southeast Asia and Mexico, respectively, led to pandemic concerns in the United States, as did the Ebola crisis of 2014–2015. In short, there is no lack of examples of homeland security threats emanating from overseas.

It therefore follows that addressing these threats will require not only international cooperation but also an understanding of how other countries, particularly allied democratic nations, address these issues within their own borders. To be able to do this, one must have some baseline knowledge as to the governmental and institutional framework and legal basis under which these countries operate. An additional advantage in conducting comparisons is that they help identify options that may otherwise be overlooked as well as the manner in which various policies that have not, thus far, been adopted in the United States might play out in the United States (Watts, 1999, p. 2).

The focus of this book will be on a handful of democratic countries, and this for three primary reasons: (i) As noted in the Preface to the first edition, time and data limitations do not allow for an across-the-board survey of policies followed by countries worldwide. (ii) There is little point in looking at nondemocratic countries since part of the goal of this analysis is to provide information and ideas that might be used by American policymakers at various levels of government and students of homeland security in order

Figure I.6 Swabbing a rooster to test for avian influenza. Credit: Merriman Crawford/Shutterstock.com.

to improve policies in the United States, and nondemocratic countries are simply less relevant because their policies and practices are usually considerably less applicable to democratic states. Finally, (iii) there is little point in looking at significantly dysfunctional countries, countries without significant homeland security-related policies in place or those with such policies that clearly do not work. In view of the above, this book will focus primarily on Israel, the United Kingdom, France, Germany, Canada, and Australia with a more cursory discussion of additional countries, when their policies are of particular interest, including Japan, the Netherlands, and Italy. Also, as noted in the Preface to the first edition of this book, it was not possible to obtain sufficient data on the policies of each of these countries with respect to each policy area of homeland security surveyed. Time constraints and, in many cases, the sensitivity of the data mean that creating a neat matrix in which each area of homeland security can be laid out and complete data on each country can be filled in is simply not feasible. Accordingly, the focus will be on the more significant strategic policies (with some detailed examples) of these various countries where information was available. This means that not every country will be covered in every chapter, and thus each chapter will involve a different mix of countries with differing levels of emphasis on each. The choice of country to be addressed per homeland security issue-area will depend not only on the availability of information but also on the degree to which a particular country has a particularly interesting or useful set of policies in a given issue-area. It will be left to future researchers in this field to write definitive accounts of the policies of each of the countries touched upon here in each issue-area of homeland security.

This volume fits into the general literature dealing with comparative government (though, of course, the focus is on homeland security-related issues). Consequently, a few words with respect to the comparative method are in order.

THE COMPARATIVE METHOD AND COMPARATIVE HOMELAND SECURITY

As with any other social science research methodology, the comparative method has its advantages and its disadvantages. If we confine ourselves to focusing on policy-oriented research and analysis, we find that the comparative method does not provide us with a means of measuring the degree of efficacy of policies followed by different entities in different contexts (in our case, countries) and designed to achieve goals that may be slightly different from one another. This is because the comparative method is not designed to be able to provide meaningful measurements of differing

policies operating in differing contexts. To use a fairly simplistic example, the "adversarial legal system," the system generally in place in common law countries such as the United States, the United Kingdom, Canada, and Australia, puts the court (a judge and often a jury) in the role of "impartial arbiter" with the court's primary role being to ensure that the proceedings adhere to the law and provide due process. On the other hand, an "inquisitorial legal system," the system in place in many civil law countries, such as France, Italy, and Spain, gives the court the role of determining the facts of the case and assigning guilt or liability. Common law systems are focused on judges (and juries) and allow considerable scope to ad hoc decisions by courts with respect to specific legal cases, whereas civil law systems tend to leave little room for judicial discretion and to focus more on a codified body of generalized principles (Slapper and Kelly, 2009, pp. 1869–1876). In reality, there is a considerable degree of crossover between these approaches, and adversarial systems can act inquisitorially in some ways and vice versa. Nevertheless, these two systems are different in their fundamental principles as well as the way in which they operate.

While it may be possible to measure the overall efficacy of the judicial system in France and then compare that to the efficacy of the system in the United States (by looking in both cases at variables such as conviction rates, the number of unresolved cases in the system in a given year, the length of legal proceedings, the cost of legal proceedings, etc.), it is not possible to measure the effectiveness of the judicial system in the United States by looking at how things are done in France and then use French measures of success, based as they are on the French system, to determine US success. This is equivalent to the proverbial comparison of apples to oranges. Rather than measuring things, the comparative method is designed to discover "empirical relationships among variables" (Lijphart, 1971, p. 683), and this means that the comparative method allows us to understand how processes work and thus increases our understanding of policy issues and our range of conceivable policy options. Looking at the approaches, policies, and experiences of other countries with respect to homeland security policy (irrespective of the fact that they do not label it as homeland security) makes it possible to gain a greater understanding of the options available to US policymakers, a sense of how policies should be selected and evaluated, and an understanding of the options available to overseas partners as well as how they operate and cope with their own threats – many of which are, as noted earlier, "transferrable" to the United States. In other words, the comparative methodology gives us the framework in which to study different policies and policy contexts but not really the ability to translate and apply one country's policies in another. In order to translate one country's

policies into the context of another country, one needs to, as it were, push the policies of the country with the potential solutions through a filter, with the filter representing the system in place in the country we are trying to influence. Whatever comes out of that filter is what is deemed implementable in the country in question. To put this more clearly, if we want to apply a French policy in the United States, we need to first take that policy and see how much of it can be applied in the United States given American laws, the federal system (which does not exist in France), the US Constitution, America's institutional structure, American culture, and other variables that collectively make up the American *way of doing business*. These variables make up the filter, and whichever French policies can make it through the filter are policies that could potentially be adopted in the United States to improve American homeland security policy. Yet another way of putting this is that there are a variety of barriers to implementation of foreign approaches in the United States. These barriers can be legal, institutional, organizational, social, cultural, or otherwise. Most strategic-level foreign homeland security-related policies will not be able to be applied *in toto* to the United States given these barriers, but some percentage of those policies may be able to get through the barriers (or filter) and, if applied, have the potential to positively influence homeland security policy.

As a quick example, the British policing and intelligence model (to be discussed in more detail in Chapters 2 and 3) involves the operation of special units, Special Branches (SBs) (referred to in some jurisdictions as counterterrorism branches), in the United Kingdom's 45 regional police forces and two of its three national police forces. SB units act as the intelligence arm of the respective police forces of which they are a part as well as a liaison between the domestic intelligence service, MI5 (officially known as the British Security Service), and their respective police forces. These SB units consist of officers with security clearance that are trained by MI5 and support intelligence-gathering missions conducted by MI5, as well as generating their own intelligence leads. SB units provide MI5 operations with local expertise and networks, and their relationship with MI5 allows the local SBs to be part of national-level investigations run by MI5.

To apply the SB model to the United States, one would have to first consider that the United Kingdom does not have a federal system of government. Rather than being entirely independent of the national government, the 45 regional police forces are all governed by a combination of their respective chief constables, elected local police commissioners and councils, and the Home Office. This means that the Home Secretary has significant control over policy in the various police forces, as well as MI5 (which reports to the Home Secretary) (Lewis, 2006). Consequently, the

United Kingdom can implement national-level protocols and doctrines at the local level, something that cannot be mandated in the United States given the federal system, and the Constitutional powers afforded the states (though the federal government can require that state and local agencies follow its protocols and doctrines if they receive federal funding for specific activities). Moreover, according to the Bureau of Justice Statistics, there are over 17 000 municipal, county, tribal, and state police forces in the United States with nearly half of these agencies employing fewer than 10 full-time officers (Reaves, 2008). This means that half the police forces in the United States could not realistically develop an SB of their own, given they have 10 officers or less on the force.

The above two examples (one legal/constitutional and one related to workforce and operations) demonstrate barriers to implementing a SB model across all of US law enforcement at the state and local levels. At the same time, there are ways to adapt the British model in some US contexts. For example, in terms of operations and workforce issues, there are certainly larger police forces that could assign one or more officers to an SB type of function (and, indeed, many midsize and large agencies do have intelligence officers, homeland security divisions, etc.). Indeed, larger forces often assign personnel to local and regional fusion centers (where information and analysis are shared across local, state, and federal law enforcement agencies) as well as Joint Terrorism Task Forces (JTTFs) – FBI-run investigative entities that include federal, state, and local law enforcement agencies that conduct counterterrorism investigations. Even small police forces could potentially designate a single officer to be their "Special Branch" and to handle counterterrorism intelligence leads, even if only on a part-time basis, and liaise with the local and regional fusion centers as well as the JTTF.

However, unlike the British practice, state, local, and federal participation in fusion centers and JTTFs is voluntary and cannot, due to constitutional barriers, be mandated by the FBI or any other federal entity. Consequently, for a midsize to large-size local or state law enforcement agency (or even a department with 10 or fewer officers) to create an SB whose personnel have security clearance and are available to assist the FBI in counterterrorism intelligence gathering and investigations, it would require that the state or local agency be willing to commit personnel to develop intelligence and track down leads in support of FBI investigations and for the FBI to be able, legally and in terms of policy, to request the support of a state or local SB. In theory, federal funding for state and local police agencies could also be tailored to provide financial incentives for the creation of SB entities in larger state and local police forces. Assuming a voluntary arrangement along the lines of that described above is feasible, one

could conclude that some modified form of the British SB model could be applied in the United States with respect to state and local law enforcement agencies, provided that relationship was voluntary.

The above provides a very cursory demonstration as to how one might analyze foreign homeland security policies and then determine the degree to which such policies could be applied in the United States or the manner in which such overseas policies might need to be adapted in order to be applicable in the United States. In order to understand homeland security-related approaches, strategies, and policies followed in the primary countries surveyed in this book – Israel, the United Kingdom, France, Germany, Canada, and Australia (and, to a lesser degree, Japan, the Netherlands, and Italy) – it will first be important to understand the historical, political, and institutional contexts in which these countries operate (more on this later).

STRUCTURE OF THE BOOK

This book will address each area of homeland security based on the categories comprising the field of homeland security but with a focus on the overarching approaches, legal bases, institutions, and some of the specific policies followed by the countries noted above as well as, in certain contexts, the supranational European Union. Each chapter, however, will focus on a different mix of countries and issues within the general topic of each chapter because the goal of the book is to provide some interesting perspectives of policies and approaches followed overseas rather than providing an exhaustive catalog of countries and their respective laws, institutions, and policies. In addition, brief sidebars that provide snapshots of particular practices or issues pertaining to topics being addressed within each chapter will be interspersed within the text to provide the reader with some examples and a more concrete sense of how the issues being discussed are addressed by one or another of the countries in this survey.

Chapter 1 of the book will consist of a brief overview of the political institutions and judicial systems of Israel, the United Kingdom, Canada, Australia, France, Germany, Italy, the Netherlands, and Japan. The objective of this chapter is to provide the reader with the general political and institutional context in which these countries operate. Chapter 2 will consist of a survey of counterterrorism laws, strategies, institutions, and examples of specific policies followed by a number of countries. Chapter 3 will focus on policing and law enforcement institutions and strategies, which are an important facet of homeland security given that traditional policing plays an integral part in counterterrorism efforts. This is the case both because, in all the countries surveyed as well as in the United States, the first line of

defense and most ubiquitous counterterrorism actor is the local law enforcement official and because a significant component of terrorist activity involves a criminal nexus of one sort or another. Chapter 4 will focus on the status of Muslims in Europe and counter-radicalization strategies followed by some European countries; given that homegrown radicalization is considered to be a growing problem not only in the United States but also especially in Europe. As international travel (especially to areas of known jihadi activity such as Syria, Iraq, Libya, Pakistan, Yemen, or Somalia) has come under greater scrutiny by the authorities, domestic radicalization has increasingly afforded global jihadi groups an alternative to traveling to their target countries. Moreover, radicalized individuals from Europe and other areas that enjoy visa-free travel to the United States can pose a significant threat to US homeland security.

Chapter 5 of the book will focus on the role played by military forces in a number of countries in the provision of domestic security and the support for civilian authorities. The issue of the military's role in domestic security is often quite controversial in the United States, but, as will be shown in this chapter, many countries have few qualms about employing their respective military establishments for domestic security missions, particularly when conditions are not normal. Chapter 6 will focus on border security, immigration policy, and survey border management approaches followed with respect to the supranational European Union (a model that could conceivably be applicable at some future date to the North American Free Trade Area or any other North American combined border security regime). Chapter 7 focuses on security strategies with respect to protecting potential terrorist targets. The chapter begins with a brief discussion of critical infrastructure protection and governmental partnerships with the private sector (which, in all of the countries surveyed currently make up the bulk of critical infrastructure operators), and then moves on to highlight a few examples of cybersecurity approaches and frameworks overseas. Chapter 7 then shifts focus to transportation security and briefly looks at the air and maritime transportation sectors. The ready access and mass use of transportation networks (and their criticality for economic and social interaction and activity) have made them prime targets in the world over for terrorist attacks as the large number of attacks against buses in Jerusalem, Tel Aviv, and other Israeli cities between 2000 and 2004, the Madrid rail network in 2004, the 7/7 and 20/7 attacks against public transportation in London in 2005, and, of course, the Al Qaeda attack against four US airliners on 9/11 attest to.

Chapter 8 looks at strategies, institutions, and policies followed by the countries surveyed that are designed to respond to emergencies (whether terrorism, natural disaster, or public health related) and to manage the

intermediate and long-term impact of such emergencies including emergency preparedness and emergency response and management. The chapter also touches on the approaches taken by several countries toward crisis communications with an eye to fostering public resiliency. Finally, Chapter 9 looks at a number of public health strategies, institutions, laws, and policies followed by a variety of countries surveyed in order to cope with the threat of pandemics.

While none of the countries and policies to be surveyed represent perfect policy approaches and solutions to all homeland security problems, many of them have proven useful and comparatively successful in achieving specific policy objectives and thus should be of interest to others in analyzing and improving upon homeland security laws, strategies, and policies in the United States and other countries as well as building a foundational knowledge base for students of homeland security.

ISSUES TO CONSIDER

- Why is homeland security a uniquely American concept?
- How can homeland security be defined?
- How has the concept of homeland security evolved?
- How does homeland security differ from national security?

CHAPTER 1

COUNTRY OVERVIEW

Each of the countries surveyed in this book should first be understood in the context of their governance systems. This means looking at the constitutional underpinnings; the relationship between the executive, legislature, and judiciary; and the nature of territorial governance (federalism, centralism, and other models). There are a number of excellent texts focusing on particular countries' governance systems that can provide the reader with a comprehensive understanding of these countries. The goal here is not to repeat those efforts but rather to focus on governance within the homeland security sphere. At the same time, it is important to establish some very basic knowledge of the governance systems of the countries to be surveyed in order to provide the legal, political, and institutional context within which to look at homeland security policies. The following is therefore a highly abridged overview of the countries to be focused on in the survey. These are Israel, the United Kingdom, Canada, Australia, Germany, France, the Netherlands, Italy, and Japan.

STATE OF ISRAEL (*MEDINAT YISRAEL*)

Israel is a small country with a total area of 22 072 km^2 (approximately the size of the American states of New Jersey or Massachusetts). It has a population of 8.68 million inhabitants (75% Jews and 21% Arabs, the remainder of the population consisting of small minority communities – non-Arab Christians, Bahai'i, Circassians, etc.). It also controls, but has not annexed, a large section of the West Bank and has annexed the northern, southern, and eastern sections of the city of Jerusalem and the Golan Heights (all of these territories were conquered during the Six-Day War of 1967). Most of the population

Comparative Homeland Security: Global Lessons, Second Edition. Nadav Morag.

MAP 1.1 Map of Israel.

lives in the temperate central and northern 40% of the country (which enjoys a Mediterranean climate) with most of the desert regions of the south sparsely populated. The topography varies from rocky and partially wooded hills in the north and east to sandy coastal plains in the west and to rugged desert hills in the south. Israel is a highly urbanized country with 92% of the population living in towns or cities, and 82% of the workforce employed in service industries, 16% in heavy industries, and only 2% employed in the agricultural sector. The leading sector in the economy is the hi-tech sector, and Israel is one of the world's leading producers of computer software, communications technology, avionics, and medical electronics.

The State of Israel was declared on 14 May 1948 upon expiration of the British Mandate for Palestine. The new state, however, did not appear in a vacuum and was established upon a foundation of three decades of nation-building and institution-building by a largely autonomous Jewish community (known in Hebrew as the *Yishuv*) operating under the administration of the British Mandate for Palestine. This incubatory period made it possible for the new state to come into existence with surprisingly robust and tested democratic institutions and traditions. In fact, it is quite remarkable that Israel was able to maintain an unbroken record of democratic rule throughout the years given the significant security challenges that if faced, including no less than seven full-scale wars as well as several additional significant military operations and long periods of dealing with intensive terrorist campaigns.

Israel is a parliamentary democracy and thus follows the principle of "responsible government" (in that the executive branch, known as the "government," is responsible to parliament and can be replaced by it). This means that the government must enjoy the support of the majority of the parliament (or, at the very least, avoid being voted out by a majority of the parliament), and the parliament has the power to unseat the prime minister and the rest of the cabinet if they lose majority support in the

Figure 1.1 Israeli parliament building. Credit: Roman Yanushevsky/Shutterstock.com.

parliament (usually via a parliamentary procedure known as a "vote of no confidence"). The upshot is that in such systems, the parliament is not only responsible for passing legislation but is also responsible for creating governments (cabinets). All of the countries surveyed in this book are parliamentary democracies of one sort or another, the only exception being France, which has a hybrid, or semipresidential, system. Indeed, while it may seem strange to American readers, the presidential system employed by the United States (in which the executive branch is independent of the legislative branch) is rare among democracies and largely confined to the Western Hemisphere. In a parliamentary system like Israel's, the government, that is, the ministerial level of the executive branch (the cabinet), is created from the legislature (the parliament) so that the prime minister and the other cabinet ministers are also members of parliament (MPs) – in some systems, all cabinet members must be MPs and in others only some are MPs, while in yet others cabinet ministers cannot be MPs. In the Israeli case, at a minimum, the prime minister and half of the cabinet must be MPs, but, in practice, the vast majority of (and often, all) government ministers are also MPs. In a parliamentary system, the prime minister is not elected directly but rather is elected to parliament (either by representing a voting district or, as in the Israeli case, by running at the head of a party list of candidates), and those cabinet ministers who are also MPs are also similarly elected to parliament (with the non-MP ministers appointed by the prime minister). Consequently, in the Israeli system, as in other parliamentary democracies, there is no constitutional separation between the executive and legislative branches. Most parliamentary systems comprise a bicameral parliament (two legislative houses), but Israel has a unicameral parliament – called the *Knesset*. The *Knesset* consists of 120 MPs (known as MKs [members of Knesset]), and the prime minister and the vast majority of his/her cabinet members are among those 120 members (with each enjoying one vote).

As noted above, all Israeli MKs are voted in by party list as there are no voting districts in Israel (or rather, the country is one voting district). This system of election is known as "proportional representation" and is quite rare among parliamentary systems – most of which employ some version of the "winner-take-all" system in which the candidate with the most votes (though not necessarily a majority of votes) in any given voting district is elected to represent that district (the British, using a horse racing metaphor, refer to this as "first-past-the-post"). In many ways, the proportional representation system is very democratic in that it essentially means that the leaders of smaller parties that represent only a fraction of the voters are able to achieve parliamentary office and thus, at

least theoretically, represent the views and preferences of those voters. Thus, whole swaths of minority opinion can enjoy representation, whereas in a "first-past-the-post" voting system like that of the United States, voters who supported candidates and parties that only garner a fraction of the votes are essentially ignored. This is one of the reasons that such systems tend to have fewer candidates from non-mainstream parties achieving a place in the legislature. If the United States, which has a "winner-take-all" system, were to hypothetically institute a proportional representation voting system, one can be certain that Congress would include a wide variety of parties and the effective two-party monopoly of power that exists today would be challenged and probably broken down over time. One of the downsides, however, of this voting system is that it often affords small parties and their leaders (that represent a political minority of one kind or another) the power to impose themselves on the majority (something that is not terribly democratic). As a result of the proportional representation voting system, and in view of the deep divisions in the Israeli body politic, elections for the *Knesset* produce a very large number of parties. At the time of this writing, the current *Knesset* membership (the 20th *Knesset*, voted in on 17 March 2015) belongs to no less than 10 separate political parties with the largest party, the *Likud* holding 30 seats and the second largest party, the *Zionist Camp*, which heads the opposition, holding 24 seats. Since a government (that is, the prime minister and the other members of the cabinet, who are collectively tasked with running the executive branch) can only be voted in with a majority in the *Knesset*, this means that the *Likud* is 29 seats shy of enjoying a slight majority in the *Knesset* (61 seats, of course, being needed for a minimal majority).

This current distribution of seats in the Israeli parliament is not unique. No Israeli political party has ever come close to enjoying a majority in the parliament, and consequently all Israeli governments are formed through an alliance (or "coalition") of parties elected to the *Knesset*. The current government (Israel's 34th) is made up of six parties, the largest and central one being the party of Prime Minister Benjamin Netanyahu, the *Likud*. Since the *Likud*, however, is far from enjoying a majority in parliament, Netanyahu must ensure the integrity of his coalition and this means that he, or any Israeli prime minister for that matter, must compromise and share power in a manner that would be quite foreign to a US president. Unlike a US president, who is voted in for a 4-year term and cannot be dislodged during that period (except if he/she is impeached), an Israeli prime minister can lose his/her job if a majority of the members of the *Knesset* decide to vote against the government and support an alternative leadership in what is referred to as a "constructive

vote of no confidence." This means that the prime minister must keep his coalition partners happy (as well as *Knesset* members from his own party) as a decision on the part of enough parties or individual *Knesset* members to stop supporting the government could lead to the passage of a vote of no confidence and the downfall of the government.

In parliamentary systems, the cabinet as a whole makes policy and the prime minister is not the chief executive and commander-in-chief, as is the US president, but rather *primus inter pares* (first among equals) in the collective decision-making of the cabinet. In parliamentary systems in which one party enjoys a majority in the parliament, the prime minister (who is head of his/her party) is in a much more powerful position than in countries, such as Israel, in which rule is by coalitions of parties. Nevertheless, even in systems in which one party enjoys a clear majority in the parliament, the prime minister does not enjoy a separate status, similar to that of the president of the United States, since prime ministers are not voted in directly and their status is dependent on the maintenance of the domination of their party (or coalition of parties) over the parliament. Moreover, prime ministers must act in the context of the cabinet with a majority vote in the cabinet a prerequisite for all important policy issues.

Parliamentary democracies also maintain a separation between the functions of "head of state" and "head of government" (whereas, in the United States, these functions are amalgamated in the person of the president of the United States). As Israel is a republic, the head of state is the president, whose role is almost entirely ceremonial. The Israeli president's only substantive powers are confined largely to the right to commute the sentences of convicted criminals or pardon them (and this only at the recommendation of the Ministry of Justice). The president is supposed to be "above" politics and act as a unifying figure – though the latter never really happens as most Israelis do not put much stock in the Israeli presidency and usually ignore it.

The realities of coalition politics sometimes make Israeli cabinets chaotic, and Israeli prime ministers often have to act more as consensus builders than leaders in order to keep together coalitions of parties with different agendas and ideologies. One of the repercussions of this need to maintain coalitions is that long-range planning is highly difficult as Israeli cabinets do not always last for their entire 4-year term (when they do not, this is usually because coalitions disintegrate and this leads to a loss of support in the *Knesset*, which usually results in the calling of early elections rather than a vote of no confidence), and the prime minister must be careful not to be seen as supporting positions that might irrevocably alienate his or her coalition partners in the cabinet, causing them to leave the government

and vote against it in the *Knesset*. This also means that the prime minister cannot use the cabinet as a true decision-making and deliberation body because the cabinet is stacked with his/her political rivals, both in the prime minister's own party and among the prime minister's coalition allies (Freilich, 2006, pp. 639–640, 645–646).

Unlike the linkage between the executive and legislative branches that exists in Israel and other parliamentary democracies, the court system in Israel is independent of these other institutions (as is usually the case in other parliamentary systems). While Israel has a number of specialty courts that deal with things such as municipal issues, labor disputes, traffic violations, small claims, family disputes, juvenile criminality, personal law matters that fall under the purview of religious courts, and a military justice system (more on this in a subsequent chapter), the primary court system has three tiers and is responsible for dealing with both criminal and civil cases. The lowest level of courts in this system is the magistrate courts (*Betei Mishpat Ha'shalom*), of which there are currently 26, which generally deal with criminal offenses punishable by incarceration of up to 7 years

Figure 1.2 Inner courtyard of the Israeli Supreme Court building. Credit: Corky Buczyk/Shutterstock.com.

and a range of civil issues. These courts are overseen by a single judge, and there are no juries in this or any other court in Israel. The next level is the district courts (*Betei Mishpat Mehozi'im*), of which there are five. These deal with more serious criminal cases and more monetarily significant civil cases and also act as an appellate court for cases previously tried in magistrate courts. Many of the cases heard in these courts are presided over by a single judge, but appeals and very serious cases are handled by a panel of three judges. The highest legal body in Israel is the Supreme Court (*Beit Mishpat Ha'elyon*), which usually consists of 12–14 justices (the number is set by the *Knesset*). The Supreme Court acts as the supreme appellate court (cases are usually heard by a panel of three justices though the president of the Supreme Court can create a larger odd-numbered panel for specific cases). In addition, the Israeli Supreme Court acts as a High Court of Justice (known in this context by the acronym *Bagatz – Beit Mishpat Gavoha Le'tzedek*) in exercising judicial review of government policies and the actions of official bodies and, on rare occasions, in annulling legislation passed by the Knesset. Unlike the US Supreme Court, the Israeli Supreme Court receives petitions from citizens and noncitizens requesting rulings on matters related to public policy independent of specific judicial cases and frequently intervenes and issues rulings forcing the government to modify or abandon certain policies. For example, in the counterterrorism and security context, the Court ruled on two separate occasions (in 2004 and 2005) that the government must change the route of the fence and wall security barrier Israel built in the West Bank in order to lessen the negative impact on Palestinian civilians living near specific sections of the fence, despite arguments made by government attorneys with respect to the importance, from a security perspective, of maintaining the existing routes of the fence.

In this context, the Israeli Supreme Court may be thought of as one of the most powerful courts in the world and one of the primary guarantors of civil liberties in Israel. This is particularly so given the fact that Israel, like the United Kingdom, lacks a formal constitution against which legislation or the policies of government can be compared. While incorporating elements of other legal traditions, Israel's court system is still fundamentally based on common law, and consequently precedents established in higher courts are binding on lower courts (a principle known as *stare decisis*).

Israel's small geographic size also causes it to be unique among the countries surveyed in terms of the manner in which governance occurs across the national territory. Israel and France alone among the countries surveyed have a highly centralized form of government, but France, which

is significantly larger and more populous than Israel, divides its territory into prefectures with officials appointed by the central government overseeing each prefecture in the name of the central government in Paris. Israel has no such administrative divisions as the national territory is very small, and appointing governors, prefects, county supervisors, and the like would make little sense. Accordingly, Israel has a central government (based largely in the capital, Jerusalem – though the Ministry of Defense is based in Tel Aviv), which holds considerable power and comparatively weak local governments (in the form of municipalities for cities, local councils for towns, and regional councils for rural areas). The vast majority of policing functions, for example, are centralized with one national police agency under the direct control of the central government and having law enforcement authority throughout the country. In this sense, one could argue that Israel is an example of the most centralized country within our survey (with Germany arguably being the least centralized, though Canada and Australia have highly federalized, and thus diffuse, systems as well). While the role of local government has grown in Israel over recent years (in matters of policing, to use the previous example, municipal inspectors have been given some limited police powers [see Chapter 3]), the lion's share of policy issues are still handled at the central government level. The small geographic size and small population of the State of Israel mean that only national-level agencies have the budget, personnel, and clout to design and implement most homeland security policies.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

The United Kingdom has a territorial area of 243 610 km^2 (roughly the size of the US state of Oregon) and a population of just over 65 million people. Approximately 90% of the population lives in cities or towns. Close to 84% of the UK population is ethnically English with close to 9% ethnically Scottish, 5% ethnically Welsh, and 3% Northern Irish. In addition approximately 8% of the population originally hails from areas outside the British Isles. The climate is generally wet and overcast, and the topography varies from rugged mountains and hills in the north and west to rolling plains in the south and east. Industrial activity takes up some 24% of the economy, but the bulk (75%) of economic activity is in the service sector with the United Kingdom being one of the world's leading financial centers and enjoying one of the four largest economies in Europe.

Of the countries surveyed in this book, the United Kingdom has the longest tradition of parliamentary rule. It is not, however, a republic (as are Israel, France, and Germany) but rather, as its name suggests, a constitutional

MAP 1.2 Map of the United Kingdom.

monarchy in which the head of state is a hereditary monarch (that same monarch, Queen Elizabeth II, also reigns over Canada and Australia). Much of English history involved a tug-of-war between the Crown, desiring to maintain royal prerogatives, and Parliament, desiring to increase its share of power. Ultimately, Parliament was largely victorious in this contest, but the Crown was able to retain some significant residual powers (known as the "royal prerogative"). Those powers include the power to enter into international treaties, the power to declare war and peace, the power to summon and to dissolve Parliament, the appointment of a government (cabinet), and the power to commute sentences or grant pardons (Barnett, 2002, pp. 8–9). Perhaps even more significantly, the Crown must assent to any bill passed by Parliament before it can become law. While these powers appear very impressive on paper and, indeed, appear to be at odds with many of the principles of democracy, there are strong conventions in place that regulate these powers. These conventions, while they do not enjoy the status of legal requirements, are extremely binding nonetheless. For example, while the Queen could theoretically reject a bill passed by

Figure 1.3 British Houses of Parliament. Credit: Richie Chan/Shutterstock.com.

Parliament, this would in fact be the first time since 1707 that a British monarch would have done so, and this would unquestionably precipitate a serious constitutional crisis that would likely result in the significant curtailment of royal powers. Consequently, the monarchy cannot really exercise many of the significant powers that it theoretically enjoys. Moreover, most of these prerogative powers are no longer exercised by the Crown but rather by the government in the name of the Crown (powers of war and peace, the signing of international treaties, decisions on dissolving Parliament in order to call new elections, etc.), and it is generally understood that the Crown will assent to whatever the government requests of it. Beyond this, it is generally accepted that if Parliament passes a law regarding a particular matter, that issue will then be dealt with according to that Act of Parliament rather than government determining how the issue will be handled based on the powers it enjoys under the royal prerogative (Barnett, 2002, p. 10).

Unlike Israel, the United Kingdom has a bicameral parliament with two houses: a lower house (the House of Commons) and an upper house (the House of Lords). This bifurcation of Parliament (not unlike the rationale behind the creation of the more exclusive upper house of the US Congress) was originally designed, at least in part, to allow the nobility operating through the House of Lords (whose membership was once largely

hereditary but is now largely appointed) to maintain their historic prerogatives and to act as a limitation on the "excitability of the masses" as reflected through the House of Commons. The poet Samuel Taylor Coleridge reflected this viewpoint when he noted:

> You see how this House of Commons has begun to verify all the ill prophecies that were made of it – low, vulgar, meddling with everything, assuming universal competency, and flattering every base passion – and sneering at everything noble refined and truly national. The direct tyranny will come on by and by, after it shall have gratified the multitude with the spoil and ruin of the old institutions of the land.
>
> (Coleridge, 1833)

As of 2017, there were 806 peers in the House of Lords (membership fluctuates). Ninety-one of those with voting rights are hereditary peers, and the institution still contains 25 senior clergy of the Church of England as well as a large number of "life peers" (69) appointed for life by the Prime Minister. Given that the House of Lords also plays an important judicial role, it also includes in its membership up to 28 senior judges (including the Lord Chancellor, who heads the judicial branch, being also a member of the Cabinet and acting as Speaker of the House of Lords). The House of Lords is thus a nonrepresentative parliamentary body. Interestingly, members do not receive a salary for serving on this body, and this is consequently not a professional body with attendance being ultimately at the discretion of the individual. In the legislative process, the Lords have the role of scrutinizing legislation passed by the Commons and often improve upon legislation that is sometimes hurriedly passed by the Commons (Watts, 2006, p. 70). They can also delay the passage of a bill from the Commons (though only temporarily) and can also generate bills for the consideration of the Commons (approximately a quarter of bills passed by Parliament are initially drafted in the Lords). Consequently, while the basis for membership of the House of Lords is undemocratic in the sense that the Lords are neither elected nor directly accountable to the voters, the fairly limited powers of this institution in the legislative process ensure that most of the power and authority lie with the elected MPs in the Commons.

As with other parliamentary democracies, the leadership of the executive branch (the Cabinet) is formed through the creation of an elected majority in Parliament (meaning in this case the House of Commons). Members of the House of Commons are elected to represent 650 constituencies in the United Kingdom and its overseas territories. Unlike the Israeli model of coalition government, the vast majority of governments in the United Kingdom have

Figure 1.4 No 10 Downing Street, residence of the Prime Minister and location of cabinet meetings. Credit: Drop of Light/Shutterstock.com.

been formed from one party, which is able to gain a majority in the House of Commons in the wake of a national election (something that is much more possible with a voting system based on candidates running in voting districts rather than party lists elected via proportional representation). Consequently a British Prime Minister generally has the luxury of not having to deal with fractious coalition partners – though he or she may be the recipient of considerable grief from party backbenchers – not unlike the position that US presidents find themselves from time to time with respect to members of Congress from their own party. As in other parliamentary systems, the Prime Minister is a member of the House of Commons, and the other ministers are also MPs (four from the Lords and the rest from the Commons), and the Cabinet makes national policy decisions as a collective body. There are also 95 additional ministers who play leadership roles in ministries and other government agencies but do not hold Cabinet rank. One other point that is interesting about the role of Parliament in the British system is that Parliament is sovereign – meaning that no court or other entity has the authority to overturn an Act of Parliament and only Parliament can overturn its legislation. Since the United Kingdom, like Israel, does not have a written constitution, there is no document to which laws must conform. Courts have the authority to rule on the manner in which the government implements legislation, and thus the principle of judicial review exists and is acted upon in the United

Kingdom, but they do not have the authority to review legislation passed by Parliament (though they can review by-laws passed by local authorities).

Unlike Israel, there is no clear separation in the United Kingdom between the executive and legislative branches on the one hand and the judicial branch on the other. As noted above, the individual who effectively heads the judicial branch, the Lord Chancellor, is both a member of the Cabinet and a peer in the House of Lords (though there are restrictions, by convention, on the Lord Chancellor's powers when fulfilling one of these roles with respect to the other functions of the office). Moreover, the 26 judges who are peers in the House of Lords (known as the Law Lords) act as the country's highest court of appeals, causing a further intertwining of the relationship between the legislature and the courts.

The United Kingdom of Great Britain and Northern Ireland consists of four "countries" (in addition to overseas dependencies), namely, England, Wales, Scotland, and Northern Ireland, which form three jurisdictions with their own court systems, these being (i) England and Wales, (ii) Scotland, and (iii) Northern Ireland. England and Wales were formally united in 1536 (though English law had been applied to Wales since 1284, 2 years after the country was conquered by England). England and Wales were united with Scotland (creating the Kingdom of Great Britain) in 1707 and with Ireland

Figure 1.5 Old Bailey London, the Central Criminal Court of England and Wales. Credit: Anibal Trejo/Shutterstock.com.

in 1800 (creating the United Kingdom of Great Britain and Ireland), but at present only six northern counties still remain part of the United Kingdom and comprise the Province of Northern Ireland. While there are differences in the terminology and function of various courts in the three legal jurisdictions within the United Kingdom, it is still possible to summarize the system in general terms. At the lowest level of the court system are magistrate courts, which are presided over by volunteer, nonlegal professionals known as "Justices of the Peace" (of which there are approximately 30 000 of these lay justices). In addition, there are 140 district judges and 170 deputy district judges who are experienced lawyers that sit in magistrate courts as salaried justices. Magistrate courts deal with minor offenses (known as "summary offenses") such as assault, vandalism, family disputes, youth issues, public drunkenness, etc. The maximum penalty that can be handed down by a magistrate court is a level 5 fine (currently a maximum of £5000 and/or a 12-month prison sentence). Serious cases (indictable offenses) are heard in Crown Courts, and Crown Courts also hear appeals from magistrate courts. Crown Court trials on serious offenses (known as "indictable offenses") involve jury trials, whereas most Magistrate trials do not involve juries. Minor civil cases (such as small claims) are initially dealt with in county courts, and more serious ones are heard by the High Court (which also hears appeals from the county courts). The High Court is divided into

Figure 1.6 Scottish Parliament Building. Credit: cornfield/Shutterstock.com.

divisions dealing with various civil issues. Civil and criminal matters may be appealed from the High Court or the Crown Courts, respectively, to the Court of Appeal (which contains both a civil and a criminal division). The Law Lords of the House of Lords act as the supreme court of appeal. As with Israel, the principle of *stare decisis* applies to English adjudication, and thus decisions by higher courts will be binding on lower courts with rulings by the House of Lords binding on all courts in the legal system except the House of Lords itself (Slapper and Kelly, 2009, pp. 4555–4570).

While the United Kingdom is an amalgamation of England, Wales, Scotland, and Northern Ireland, it does not have a federal system of government – though it is also not a centralized state in the manner of Israel or France either. In fact, the United Kingdom incorporates both very significant elements of local autonomy, separate jurisdictions, separate laws, and institutions while also maintaining a strong central government. In this respect, and in comparison with the other countries surveyed, it is somewhat of an anomaly. In addition, the relative influence of each of these "countries" differs with England, which contains some 87% of the British population, being much larger, more populous, and wealthier than the other UK "countries." In terms of ultimate power, Parliament is sovereign and its ability to legislate for the entire country is not in question (and in this sense the United Kingdom is a centralized state), but there has been a significant divestment of central government powers over the years. Moreover, MPs representing constituencies in Scotland, Wales, and Northern Ireland are able to influence national policy from the center. At the time of writing, Northern Ireland, Scotland, and Wales all have their own devolved legislatures with varying degrees of local power (England does not have such an assembly and there presently seems to be little popular desire for such a body). Wales has the lowest degree of local autonomy with the Welsh Assembly having primarily administrative and executive responsibilities, and it can only legislate with respect to the manner of implementation of legislation passed at Westminster (the district of London that contains the Houses of Parliament). Scotland and Northern Ireland enjoy far greater autonomy with their own devolved legislatures that have the power to tax and to pass legislation with respect to certain matters. Scotland, moreover, has its own legal system (based on a hybrid of common law and civil law). Finally, Greater London has, since 2000, had its own mayor and regional assembly with some degree of autonomy, and there are other forms of regional governance. As with more centralized countries, local authorities enjoy the power to tax, pass by-laws, and otherwise enjoy some limited autonomy, and policing is regionalized in the form of 41 police district-based policing organizations (more on this later). The United Kingdom thus has a system of regional governance that is

neither completely centralized nor truly federal, but the central government is considerably stronger than local governments or the governments of Wales, Scotland, and Northern Ireland.

DOMINION OF CANADA

Canada is the second largest country in the world (after Russia) with a territorial scope of almost 10 million km^2. Its population, however, is rather small being just under 36 million people (just over half the size of the UK population). Given the harsh and intemperate climate of most of the country, 90% of Canada's population is clustered in the south of the country (within 160 km of the US border), and most of the center of the country is wooded wilderness, while most of the northern third is desolate tundra with subarctic and arctic climates. Most of the population is of European origin (approximately 66%) and an additional 26% of the population being of mixed ethnic background, 2% indigenous (known in Canada as "First Nations") and the remainder from Asia, Africa, and the Arab world. In

MAP 1.3 Map of Canada.

terms of its labor force, 71% are employed in the service industries and 26% in heavy industries. Canada has an affluent economy and lifestyle with vast reserves of natural resources. Its primary trading partner is the United States, to which it sends 76% of its exports.

Canada shares much of the basis of its system of government with the United Kingdom. This is not surprising given that Canada's process of detachment from the British Empire occurred very slowly and in a piecemeal fashion. What had been six separate British colonies united and became a Dominion (a self-governing member of the Empire) in 1867 with the promulgation by London of a Canadian Constitution. The separate dominion of Newfoundland subsequently joined the Canadian federation in 1949. However, Canada only became legislatively independent of the mother country with the passage of the *Statute of Westminster* in 1931, and the British Parliament maintained the exclusive right to amend the Canadian Constitution until the passage of the *Constitution Act* in 1982 – at which point Canada is considered to have achieved complete independence from Britain in the full legal sense. Symbolically however, the Canadians have not cut their ties with the United Kingdom completely and still remain a constitutional monarchy with Queen Elizabeth II also serving as Canada's head of state.

Canada's constitution is thus based on both the 1867 and 1982 Acts. The 1982 Act also included a bill of rights known as *the Canadian Charter of Rights and Freedoms*. As Canada is a federal state, each of Canada's 10 provinces

Figure 1.7 Flags of Quebec and Canada. Credit: Jacques Durocher/Shutterstock.com.

has veto power over amendments to the Constitution. Canada also has three territories that derive their powers from the federal government – unlike provinces, which derive their legal authority from the *Constitution Act* of 1867 and are thus not legally beholden to the federal government in terms of their respective spheres of authority. The most contentious constitutional issue in Canada is that of the status of the province of Quebec and whether or not it has the legal right to secede from the Canadian federation.

In 1995, a referendum held in Quebec nearly gave a victory to separatist political forces, and the Canadian Supreme Court subsequently ruled that while it was not legal for any province or territory to secede from Canada if a "clear majority" of Quebeckers voted in favor of secession, the federal government would be obligated to enter into negations on Quebec's secession. The Court also ruled that it was up to the federal government to determine what a "clear majority" was, and this led Parliament in 2000 to promulgate the *Clarity Act*, which gave Parliament the authority to determine what constitutes a "clear majority" (Malcolmson and Myers, 2005, p. 44). Any future attempt at secession by Quebec is thus likely to be highly complicated, but that prospect seems to be receding as support for independence among Quebeckers has dropped sharply since the mid-1990s. In fact, in a 2016 poll, 82% of Quebeckers and 73% of French-speaking Quebeckers agreed that Quebec should remain part of Canada (CBC News, 2016).

Figure 1.8 Canadian parliament building. Credit: Vadim Rodnev/Shutterstock.com.

Canada has a parliamentary regime with a bicameral parliament modeled on the British Parliament, and it consists of an elected lower house (the House of Commons) and an appointed upper house (the Senate). As in the United Kingdom, the Canadian House of Commons is equated with the term "parliament" because it holds the virtually exclusive power to legislate. The Commons consists of 337 MPs, each representing a territorially based constituency (known as a "riding"), meaning that the lion's share of parliamentarians come from the most populous provinces: Ontario and Quebec. The Senate, like the British House of Lords, was an elite "club" designed to act as a break on the democratic power represented by the Commons. Unlike the House of Lords, the Senate was not made up of hereditary peers, church officials, and the like but rather senators representing provinces. At present there are 105 senators with the seats distributed by the population size of each province (Ontario and Quebec each have 24 senators, the western provinces each have six, etc.). The senators are nominally appointed by the governor-general (the Queen's representative) but, in practice, chosen by the prime minister. The Senate has legal powers similar to the Commons but, because it is an unelected body, almost never makes use of its full powers, and thus its primary role is to review bills and make suggestions for changes, and, since the middle of the twentieth century, it has been the convention that the Senate will not oppose bills that

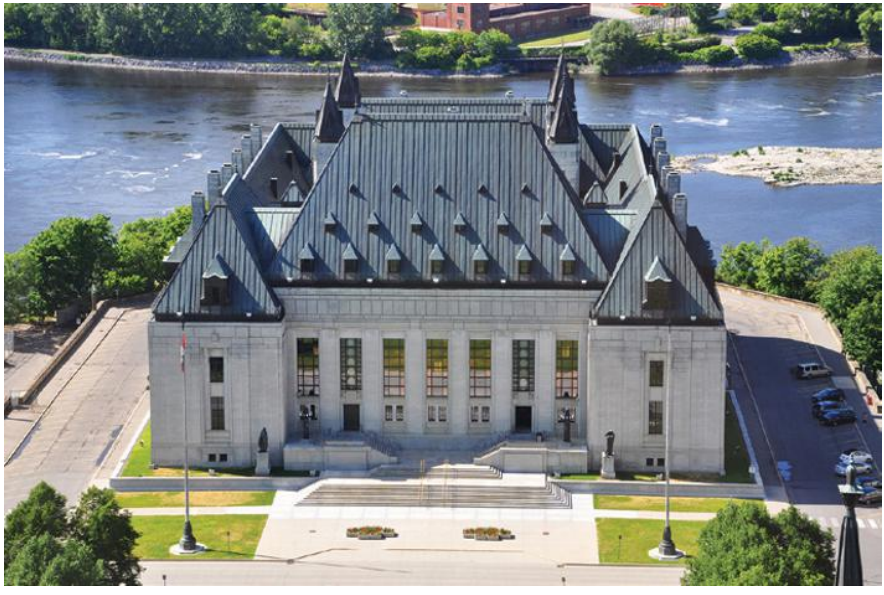

Figure 1.9 Supreme Court of Canada. Credit: jiawangkun/Shutterstock.com.

enjoy the support of the Commons (Malcolmson and Myers, 2005, pp. 132–133). As in other parliamentary regimes, the Canadian government (Cabinet) comes to power through obtaining the support of a majority of members of the House of Commons in the wake of parliamentary elections, and, like the United Kingdom, coalition governments are rare and usually formed during times of national crisis. As with other parliamentary systems, the government determines policy as a collective body, and the prime minister and other government ministers are MPs. Since the British monarch is also Canada's monarch, the Canadian Crown exercises similar powers (again, primarily symbolic and ceremonial) in the Canadian context. However, since the Queen resides in the United Kingdom, she is represented on an ongoing basis in Ottawa by a governor-general, who exercises the royal prerogatives in the name of the Queen and is appointed by her (though on the recommendation of Canada's prime minister). The Queen is also represented in the provinces by lieutenant governors.

Since Canada has a written constitution, the judiciary, as in the United States, has the power to review legislation to determine its constitutionality, and consequently, unlike the United Kingdom, Canada's parliament does not have unchallenged sovereignty, and the Canadian judicial branch is independent of the other branches of government. As in the United States, the court system in Canada is divided between federal courts and, in the Canadian case, provincial ones with the Canadian Constitution (specifically the *Constitution Act* of 1867) empowering the provinces to establish courts. Canada's provinces thus have courts that hear both civil and criminal cases and are divided into inferior courts (such as traffic, family, or small claims courts) and superior courts, which function either as trial courts for serious offenses and significant civil litigation or as appellate courts that receive appeals from the inferior courts (also known as provincial courts) (Malcolmson and Myers, 2005, p. 150). Since a good deal of law (including much criminal law) is based on federal legislation, the provincial court system can issue rulings based on both provincial and federal law. Given the unique nature of Quebec, it should not be surprising that while all the courts in Canada's other provinces operate under common law principles, Quebec's courts adjudicate based on the French tradition of civil law. While provincial courts are independent of federal courts, the federal government is given the authority to appoint all superior court judges including those in provincial courts. This reflects the nature of the Canadian federal system, which gives precedence to the federal government in a broad array of areas.

As in the United States, Canada also has a federal court to adjudicate certain matters of federal law (which range from anti-gang legislation to