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Seminar: American Multinational Corporations: Increased Power, Decreased Accountability? (October 2011)

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A considerable body of academic scholarship has addressed the question of whether a motive element should, as a matter of principle, be included in the definition of a 'terrorist act'. However, little has been written about the effect of this element on the trial and sentencing process. This paper will closely examine the Australian case law in order to reach a conclusion about the practical effect of the motive element on proof of terrorism offences. Has the motive element in fact raised the evidentiary bar for proof of terrorism offences in Australia? On the other hand, does the motive element create an opportunity for the prosecution to introduce otherwise irrelevant and highly prejudicial material about a person's religious, political and ideological views. Does the inclusion of the motive element generate a risk that a person will be found guilty by association?

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