Book Review


Especially since 11 September 2001, one of the great contemporary international issues has been terrorism and how to counter it. The range of international action and literature on terrorism is correspondingly vast. US law professor Christopher Blakesley has been long interested in the issue; portions of the book under review are adapted from the author’s 1991 publication *Terrorism, Drugs, International Law & the Protection of Human Liberty*, also published by Transnational Publishers. The title of Professor Blakesley’s 2006 publication suggests a broad assessment of terrorism and counter-terrorism from the normative and practical angles. Does the content live up to the expectations created by the ambitious title? In this reviewer’s opinion it falls short, primarily because of what is omitted rather than what is included.

Professor Blakesley starts at the beginning, as it were, by ruminating in breezy prose on why terrorism is perpetuated in light of its conceptual and historical context. Necessarily, the author then attempts to define “terrorism”. According to the author’s introduction, “this book seeks to replace vague, self-serving, and legally useless definitions of terrorism with a definition that is objective, neutral, as well as legally and morally sound” (p. xx). Positivist lawyers will be disappointed with the very limited material upon which the author relies to support “my suggested definition”. Although the author refers to US, Belgian and French legislation his discussion of the United Nations’ contribution to the definition of terrorism is unforgivably brief – a mere three pages. And half of that is said to be a passage from the 1999 International Convention for the Suppression of the Financing of Terrorism (Terrorism Financing Convention), but is in fact an excerpt from domestic US legislation, probably the United States Code, Title 8, Ch. 12 (Immigration and Nationality), Section 1182 (a)(3)(B)(iv). The author notes that since 1997 the UN Sixth Committee has considered, but not concluded, a draft Comprehensive Convention on International Terrorism. Surely a profound consideration of the progress in this international forum towards a definition, and the reasons for the remaining obstacles, would illuminate some of the fundamental difficulties with defining terrorism? It may well be that the Committee is struggling not so much with the definition of terrorism but the scope of the Convention.
A long chapter is devoted to “Jurisdiction in international and domestic law” where the author discusses extraterritoriality and jurisdiction under general international law, but concentrates mainly on US domestic legislation and case law. The survey and analysis of the US case law is particularly instructive. Blakesley’s discussion of the traditional possible bases of jurisdiction – “territorial, protective, nationality, universal and passive personality” – is generally sound, as one would expect of an experienced international law teacher. However, especially in a book on terrorism, this reviewer was surprised not to notice any reference to the jurisdictional provisions of the recent terrorism conventions, notably, the 1997 International Convention for the Suppression of Terrorist Bombings (Terrorism Bombing Convention) and the 1999 Terrorism Financing Convention, to which over 150 States are parties. For example, Blakesley refers to the passive personality principle, which applies on the basis of the victim’s nationality, and states that the principle “is not widely accepted” but “is gaining recognition internationally” (pp. 122, 125). But this position would be no obstacle for States parties to the 1997 and 1999 terrorism conventions (and the 2005 Nuclear Terrorism Convention), which explicitly permit States to establish jurisdiction over offences under the conventions on the basis that “the offence is committed against a national of the State”.

The author devotes one chapter specifically to distinguishing terrorism from war crimes and crimes against humanity. This chapter is not entirely satisfying. The author promises to “distinguish each term, indicating similarities and differences” (p. xix). The author states “if the terroristic conduct occurs during warfare, it is called a war crime or crime against humanity. If it is committed during peacetime or what seems today to be merely relative peacetime, it is called terrorism.” (p. 51) The distinction is in fact less clear and the author’s statement is at odds with two important examples to which he does not refer in the book. First, Art. 33 of the 1949 Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War provides that, in respect of protected persons under the Convention, “measures . . . of terrorism are prohibited.” Secondly, the statement does not sit well with a groundbreaking case arising out of the notorious 1992 siege of Sarajevo – the ICTY’s conviction in 2003 of General Galić for “the crime of acts of terror against the civilian population . . . a purported violation of the laws or customs of war”, grounded in Art. 51(2) of Additional Protocol I of 1977 and Art. 13(2) of Additional Protocol II of 1977. These examples indicate that in armed conflict, terrorism may be called just that, terrorism.

1) See Art. 6(2) (a) of the 1997 Terrorism Bombings Convention and Art. 9(2)(a) of the 2005 International Convention for the Suppression of Acts of Nuclear Terrorism, which came into force on 7 August 2007, after publication of the book under review; and, in similar terms, Art. 7(2) (a) of the 1999 Terrorism Financing Convention.

2) See Prosecutor v Galić, ICTY, Case No. IT-98-29-T, Trial Chamber I, Judgment and Opinion of 5 December 2003, paras 65-66, 133, 138, 752. The conviction on this count was upheld on appeal as a