

University of Miami International and Comparative Law Review

Volume 11
Issue 2 *Volume 11 (2003) Special Issue: Islam*

Article 8

10-1-2003

Terrorism And The Law (Yonah Alexander And Edgar H. Brenner, Eds., Transnational Publishers 2001).

Fara Gold

Follow this and additional works at: <https://repository.law.miami.edu/umiclr>



Part of the [Comparative and Foreign Law Commons](#), and the [International Law Commons](#)

Recommended Citation

Fara Gold, *Terrorism And The Law* (Yonah Alexander And Edgar H. Brenner, Eds., Transnational Publishers 2001)., 11 U. Miami Int'l & Comp. L. Rev. 191 (2003)

Available at: <https://repository.law.miami.edu/umiclr/vol11/iss2/8>

This Book Review is brought to you for free and open access by the Journals at University of Miami School of Law Institutional Repository. It has been accepted for inclusion in University of Miami International and Comparative Law Review by an authorized editor of University of Miami School of Law Institutional Repository. For more information, please contact library@law.miami.edu.

TERRORISM AND THE LAW (Yonah Alexander and Edgar H. Brenner, eds., Transnational Publishers 2001). 175 pp. Paperback.

Fara Gold*

Copyrighted in 2001, undoubtedly before the September 11th terrorist attacks in New York City and Washington D.C., *Terrorism and the Law*, evokes surreal notions of clairvoyance, in a manner of speaking. The reader is left to wonder if the authors knew then what we all know now, would their overall perceptions and hypotheses be any different? This collection of articles and documents was edited by Yonah Alexander, Senior Fellow and Director of the International Center for Terrorism Studies and the Potomac Institute for Policy Studies, as well as Edgar H. Brenner, Co-Director of the Inter-University Center for Legal Studies in Washington D.C. and Legal Counsel to the Inter-University Center for Terrorism Studies. Their collaboration is the fourth research project in the Terrorism Library Series of Transnational Publishers, but a subsequent effort of the editors to their original four volume set addressing the subject of terrorism, entitled *Legal Aspects of Terrorism in the United States*, published in 2000 by Oceana Publications. (p. viii).

Terrorism and the Law provides a brief overview of the state of international and domestic law as it applies to terrorism and defining terrorist activity. Sadly, due to the tragedies of September 11th, and as a result, the ensuing conflicts, it seems that the ideas and theories set forth in this book became antiquated at 8:46 a.m. when American Airlines Flight 11 crashed into the North Tower of the World Trade Center. While the objective of the book is to give the reader a sense of the international community's response to terrorism, it now serves as a kind of window to the future, giving us an opportunity to look through it just a bit too late.

The first part of the book is a collection of scholarly articles and comments, addressing various aspects of terrorism, ranging from the definitional debate about word "terrorism," itself to the state of aviation security, to the correlation between genocide and terrorism. Articles also address cyber-terrorism as well as the international response, including the role of the Federal Bureau of Investigation. The second part of the book is dedicated to a selection of court opinions, individual state codes within the United States addressing terrorism, and United Nations' resolutions and conventions devoted to identifying, and dare I suggest,

* JD (2003), University of Miami School of Law; BA (2000), Emory University.

solving the problem (for lack of a stronger term) of terrorist threat and activities.

Some of the comments in the first part of the book are particularly telling, as the authors inferentially predict what the future will hold. For instance, "Terrorism: A Definitional Focus," written by Yonah Alexander, describes the various definitional approaches of terrorism. While this is interesting from an etymological standpoint, I found it intriguing because of the premise on which it was written. Alexander begins, "Many governments have failed to appreciate the extent and implications of the terrorist threat to modern societies." (p. 3). He then specifically points to the United States, explaining that this lack of appreciation is due to the definitional disparities from state to state. Yet despite the differences, and whether the definitions do, in fact, correlate to awareness, this idea is quite chilling. Could such an assertion be made today, as opposed to eighteen months ago, accusing modern societies of failing to appreciate the real threat of terrorism?

Indeed, this discussion of definitional disparities elicits the position set forth by the Supreme, when it issued its opinion in reference pornography, i.e. "I'll know it when I see it." The same can be said of terrorism. Despite the fact that we may not be able to define terrorism, we have certainly learned to be able to recognize it. At the end of his article, Alexander offers his own definition of terrorism (p. 7), seemingly trying to explain is that despite the commonalities among the definitions that do exist, there is nothing that definitively pinpoints terrorism. Yet in this post-September 11th era, there is a very definite tangible fear of terrorist activities, and maybe this makes a written definition less necessary. Terrorism is no longer, at the very least, an existential concept, or at most, a horrific activity occurring on the other side of the world. Instead, it encompasses the images and the aftermath of the assaults on the Twin Towers and the Pentagon, and as a result, we now do have a universal meaning of terrorism.

"Terrorism and Genocide" is the next topic addressed within this collection by Dr. Stephen Cohen, Martin Mendelsohn, Esq., and Professor Christopher C. Joyner. Just like the previous comment, these articles are equally disturbing, as Cohen begins by listing the "prominent murderers" of the twentieth century, hoping that the twenty-first century will not bring new additions to the list of notorious hitmen. (p. 8). How bizarre it is to read that sentence, knowing soon after those words were written, Osama Bin Laden would top the list. These articles then further explain the application of international law to the prosecution of those

allegedly guilty of terrorism and genocide, as the authors bemoan the lack of effective prosecution, and particularly the injustice found in American courts.

The aviation security case study by Dr. M. Anthony Fainberg is the most thought provoking comment in this book. It discusses the evolution of airline and airport security from the crash of PanAm Flight 103 through the crash of TWA Flight 800. Ironically, Fainberg discusses the fear of the loss of civil liberties as aviation security increases, a fear which would increase exponentially within the coming months. Yet at the same time, many view the sacrifice of civil liberties as a necessary loss for the type of safety that many believe we will never adequately recover. Fainberg's article is probably most disturbing when he concludes that while we are well on our way to developing effective technology to ensure aviation security, there is still much to be done. He then adds that it is a good thing that potential terrorists are unaware of the extent and efficiency (or lack thereof) of this technology (p. 19-20).

The last part of the book is full of the same brand of irony, as it contains a myriad of court opinions in both the United States and Great Britain, regarding the conviction of known terrorists. One such opinion is the rationale and affirmance of the conviction of Fawas Yunis, hijacker of Royal Jordanian Airlines Flight 402, who appealed on jurisdictional and Sixth Amendment grounds. The book also contains the transcript of *United States v. Osama Bin Laden et al.*, 146 F. Supp. 2d 373, in which the presiding judge and attorneys for the government and the multiple defendants are discussing the jury instructions for the sentencing phase of the trial. Specifically, the debate focuses on jury nullification and the proper instruction regarding a unanimous decision necessary to implement the death penalty. The transcript is dated May 29, 2001, leaving the reader to wonder what the future would hold had the death penalty been carried out.

Terrorism and the Law is a page-turner, but probably not in the same vein that the editors intended. At one time, it may have illustrated the state of the current law and policy applicable to terrorist activity. Yet, we now live in a new era of fear where Americans have a greater "appreciation" – to coin Alexander's term – for both the existing hatred for the United States as well as the threat of terrorism. As a result, this book provides an eerie view of scholarly thought before the September 11th attacks and also educates the reader of the history and policy that inevitably led to the unspeakable horror of that day.