

# Book reviews

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## **The 'War on Terror' and the Framework of International Law**

Helen Duffy

Cambridge University Press, 2005

488pp £28.99

Nine days after the terrorist attacks on New York in 2001, in an address to a Joint Session of Congress and the American people, President Bush remarked:

*Our war on terror begins with al Qaeda, but it does not end there. It will not end until every terrorist group of global reach has been found, stopped and defeated!*

Twenty-nine days after the terrorist attacks in London in 2005, in a press briefing, Tony Blair announced:

*Let no one be in any doubt that the rules of the games are changing.<sup>2</sup>*

Governments have a responsibility to react to major terrorist events, but must do so proportionately and with regard to fundamental rights and the rule of law. A major challenge occurs when such reactions are seen to take place outside the boundaries of legality. *The 'War on Terror' and the Framework of International Law* is an excellent publication, providing a detailed, interesting and much needed analysis of the structure of applicable international law to the 'war on terror' which has followed the events of 11 September 2001.

The book questions if there is an identifiable framework of international

law capable of addressing the attacks in New York and the subsequent reactions and asserts that the 'legitimacy of measures taken in the name of the counter terrorist struggle depends on their consistency with international law'. The book is directed at practitioners and scholars but does not assume prior understanding of international law, while remaining engaging for those who have such knowledge.

The book is split into three main sections. The first discusses terrorism in international law, a major issue being that there is no universally accepted definition of what constitutes international terrorism. This is a continuing challenge that the United Nations has faced for some time, but the author notes that the lack of an accepted definition does not necessarily leave a huge gap in the international legal order. Instead the threat to international law arises from the detailed and comprehensive obligations which are imposed on states from such an indefinite concept.

The second section details reactions to the events of 11 September 2001 by reference to two areas of international law: criminal law and the law governing peaceful settlement of disputes and resort to armed force. There is criticism of the lack of resort to the international court system, the low priority afforded to criminal justice, and the disregard for the normal processes and safeguards of the law. The use of force in Afghanistan and Iraq are discussed in detail, and the failure to engage the collective security system criticised. The third section details the scope and effect of

international human rights law and international humanitarian law, stressing the importance of complying with such rights, and uses the detentions at Guantanamo Bay as a case study of the application (or lack thereof) of these two areas of international law.

Helen Duffy's work provides an excellent foundation for discussion and study of the legality of responses to terrorism, concluding that the main challenge stems not from the inadequacy of existing legal standards but from the lack of respect for them. The purpose, scope and impact of international law need to be recognised, for a framework does exist and needs to be both understood and valued. The rules of the 'game' deserve nothing less.

**Rachel Brailsford, research assistant, JUSTICE**

## **Judge For Yourself How Many Are Innocent**

*L A Naylor*

Roots Books, 2004

285 pp £12.95

Following three years of research into 'miscarriage of justice' cases in Britain, L A Naylor presents an insightful account into how a system designed to achieve justice can in fact create tragic injustice for certain individuals. In her introduction, Naylor quotes the Home Office estimate that miscarriages of justice create around 3,000 new 'victims' of the system every year. A wrongful conviction, as Paddy Hill emphasises in his foreword, could happen to any one of us.

Drawing on interviews with prisoners, government representatives, lawyers, academics and various research studies, Naylor examines the criminal justice

system from a lay perspective, exploring the processes which too often fail to put the guilty in jail and keep the innocent out.

Her account makes compelling, if uncomfortable, reading. While the sometimes incendiary tone can be distracting, it is nonetheless in keeping with Naylor's desire to highlight the distress suffered by victims of the system and her exasperation at the seemingly futile reforms brought in to reduce the incidence of miscarriages of justice.

In Chapters 1 – 4, Naylor subjects each stage of the criminal justice process to examination. She starts by highlighting the incidence of police corruption, challenging the success of legislative measures such as PACE, designed to increase suspects' rights and render more transparent the investigative process. Naylor cites research to show that these new measures are flouted as frequently as were the old Judges' Rules. More alarming are failures to safeguard the lives of detainees. Between 1969 and 1999, she says, 1,000 people died while in custody, yet not one officer has been successfully prosecuted in relation to any of these deaths.

The CPS comes in for stringent criticism, with the author citing a major cause of miscarriages of justice as non-disclosure of evidence. The problem appears to have been only compounded by the inefficient operation of the Criminal Procedure and Investigation Act 1996, with which the majority of the judiciary is reportedly dissatisfied. A further obstacle in the way of justice is the poor quality and subjective nature of forensic evidence, which is commonly – and wrongly – perceived as an infinitely reliable source of analysis.