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WAR, TERROR AND JUDGEMENT



Editors

Bülent Gökay and R.B.J. Walker

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War, Terror and Judgement

Editors

BÜLENT GÖKAY

R.B.J.WALKER

University of Keele



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List of Contributors

Alex Danchev: Professor, Head of the School of Politics, International Relations and the Environment.

Andrew Dobson: Professor, Department of Government and Politics, Open University.

Richard Falk: Visiting Distinguished Professor of Global Studies at the University of California, Santa Barbara, and Emeritus Professor of International Law and Practice at Princeton University.

Larry N.George: Professor of Political Science, California State University at Long Beach.

Bülent Gökay: Senior Lecturer, School of Politics, International Relations and the Environment, Keele University.

Elsbeth Guild: Professor, University of Nijmegen; Partner, Kingsley Napley, London.

Susanne Karstedt: Professor, Department of Criminology, Keele University.

Dan Keohane: Senior Lecturer, School of Politics, International Relations and the Environment, Keele University.

Yoshikazu Sakamoto: Emeritus Professor of International Law, University of Tokyo.

Hidemi Suganami: Professor of the Philosophy of International Relations, School of Politics, International Relations and the Environment, Keele University.

Patrick Thornberry: Professor of International Law, School of Politics, International Relations and the Environment, Keele University; and Rapporteur, UN Committee on the Elimination of Racial Discrimination (CERD).

John Vogler: Professor, School of Politics, International Relations and the Environment, Keele University.

R.B.J.Walker: Professor of International Relations, School of Politics, International Relations and the Environment, Keele University.

List of Abbreviations

ABM	Anti-Ballistic Missile
ASEAN	Association of Southeast Asian Nations
AWACS	Airborne Warning and Control Systems
BP	British Petroleum
CAIR	Council on American-Islamic Relations
CDS	Chief of Defence Staff
CFSP	Common Foreign and Security Policy
CIA	Central Intelligence Agency
CNPC	China National Petroleum Corporation
EC	European Community
ECHO	European Commission Humanitarian Aid Office
ECHR	European Convention of Human Rights
EctHR	European Court of Human Rights
EPC	European Political Co-operation
ESDP	European Security and Defence Policy
EU	European Union
FAIR	Fairness and Accuracy in Reporting
G7	Group of Seven
G8	Group of Eight
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GDR	German Democratic Republic
IGO	Intergovernmental Agency
IMF	International Monetary Fund
IRA	Irish Republican Army
ISAF	International Security Assistance Force
JHA	Justice and Home Affairs

KFOR	Kosovo Force
KLA	Kosovo Liberation Army
MPAC	Muslim Public Affairs Council
NAFTA	North American Free Trade Agreement
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Agency
OECD	Organisation for Economic Co-operation and Development
OPEC	Organisation of Petroleum Exporting Countries
OSCE	Organisation for Security and Co-operation in Europe
PoW	Prisoner of War
RAF	Red Army Faction
RMA	Revolution in Military Affairs
RUC	Royal Ulster Constabulary
SADC	South African Development Community
UN	United Nations
UNOCAL	Union Oil Company of California
WEU	Western European Union
WTO	World Trade Organisation

Preface

It might have been possible for the atrocities of 11 September 2001 to have resulted in a serious re-assessment of the western security paradigm. A remarkably powerful state had been shown to be vulnerable to a simple if carefully organized attack, demonstrating that there were significant forces at work that did not accept the diffuse western hegemony that had increasingly evolved after the ending of the Cold War. In practice, this reassessment of vulnerabilities and consequences did not happen, and an almost immediate effort was made to terminate the Taliban regime in Afghanistan, putative supporters of the al-Qaida network that was considered to be the core opponent in the 'War on Terror'. This was then followed by the naming of several states as constituting an 'Axis of Evil', support for Israel in its vigorous control of the Occupied Territories, and preparations for a possible war with Iraq.

By the end of 2002, it was apparent that the 'War on Terror' was proving very difficult to prosecute. During the course of the year there were numerous attacks on western targets in Tunisia, Yemen, Kuwait, Pakistan, Afghanistan, Indonesia and Kenya, with many more attempts intercepted. The al-Qaida network had been disrupted but remained active, and in Afghanistan itself an apparent victory was deteriorating into a situation of deep instability, with a visible absence of commitment by most western states to protracted and serious post-conflict peace-building.

It was also a year in which initial support and sympathy for the United States across much of the world was replaced by suspicion and even overt antagonism. What was becoming widely believed was that the 'War on Terror' was developing into an attempt by a particularly hard-line administration to reimpose order primarily through the use of military force. By the end of the year it was as if the world community was fracturing into three constituencies. One was the United States, in concert with a handful of allied governments such as those in Australia and, to an extent, Britain, which saw the 'War on Terror' and the vigorous confronting of rogue states as the fundamental requirements for international security.

In much of Europe there was dismay at the evidence of growing instability, especially in the Middle East, and a frank disbelief that Washington could be so supportive of the Sharon government in Israel. Not only was there a greater

concern with trying to understand the root motivations of paramilitary groups such as al-Qaida, but there was also a recognition that support for these groups was not diminishing—indeed it was probably at a higher level than in the period immediately preceding the 11 September attacks.

Finally, there was what might be called the ‘majority world’ across most of Asia, the Middle East, Africa and Latin America. In these environments there were many views and opinions, but a dominant theme was a growing current of anti-American sentiments as the ‘War on Terror’ escalated, especially as this was frequently exacerbated by local elites seeking to use this ‘war’ as cover for the harsher treatment of their political opponents.

US efforts to regain control and establish itself once more as what has been termed a civilized hegemon running a ‘benign *imperium*’ was seen in a much cruder light—confirmation that the atrocities of 11 September were being used to defeat paramilitary, and other, opponents with every bit as much vigour as was demonstrated at the height of the Cold War in Latin America, Vietnam and elsewhere. Put bluntly, the US view of a civilized world of liberal market economies was seen in the majority world as the increasingly hard-line control of the world community through the use of economic, political and even military instruments.

What is particularly illuminating is that opinion formers and intellectuals in the majority world have little difficulty in recognizing and understanding Washington’s view of the world, even if so many of them embrace such a directly contradictory analysis. Among the conservative thinkers and policy formulators in Washington, on the other hand, the majority world’s view would be almost unrecognizable, or at least would be considered dangerous to the point of malignity.

In such circumstances, with a global system capable of deeply unstable divisions, scholars of international relations have a fundamental responsibility to attempt an analysis of current security trends from a global perspective, doing their utmost to go beyond the narrow ethnocentric view of the world that tends to permeate so much of western academe.

The present volume seeks to make such a contribution to that task, gathering together scholars from Europe, North America and Asia to offer a series of analyses of the post-11 September world. Not all of them agree, and there are many different viewpoints and modes of analysis represented here. At the same time, what does permeate this volume is a serious and sustained attempt to get beyond the immediate responses to the attacks. As such, the result is a thoughtful and illuminating collection of essays of a kind that is greatly needed in the circumstances in which we now find ourselves.

Paul Rogers
Professor of Peace Studies
Bradford University
30 December 2002

Introduction

BÜLENT GÖKAY and R.B.J.WALKER

On 11 September 2001, a group of hijackers turned some commercial aeroplanes into missiles and attacked key symbols of American economic and military power. These attacks flattened the World Trade Center towers in New York and destroyed part of the Pentagon. The military, political and diplomatic responses to this attack have been profound. Moreover, both the attacks and the response to them have led to intense debate not only about the immediate causes of, and responsibilities for, this specific set of events, but also about the broader historical and structural contexts in which these events might begin to make some sense. No one predicted the tragic events of 11 September. They were not inevitable but neither did they come out of the blue. They were the product of long-term structural developments and conjunctural individual actions that might have turned out differently. There is no single cause or set of causes to explain them, and responsibilities rest in many places.

What special vulnerabilities does the world of the twenty-first century have to terrorist attacks? What kind of role does the United States see itself playing as the world's only superpower in the coming decades? How should we now characterise the conduct of the US foreign policy? How should we understand these events in relation to the dynamics of world economy? How will they effect relations between Europe and America? How do they fit into our understanding of various regional conflicts, especially of the Israeli-Palestinian situation and the place of Saudi Arabia in the global reach of American military and economic power? Whatever happened to international law and the various institutions of the United Nations? Answers to such questions are perhaps not much clearer now than they were immediately after the attacks, but one of the more positive effects of these attacks has been to stimulate much serious discussion about them, and thus about the place of violence—about changing forms of warfare, about different forms of terror, and about challenges to prevailing accounts of the legitimacy of violence in contemporary political life—in the context of emerging and in many respects dangerously unstable structures of power and authority on a global scale.

Earlier versions of some of the essays in this collection first appeared in a Keele European Research Centre book, which resulted from a series of meetings and seminars at Keele University immediately after 11 September 2001.

Discussion at Keele centred especially on the extent to which these dramatic, and in many respects unprecedented, events could be understood as symptoms of far-reaching trends and transformations in contemporary global politics. We have, of course, continued these discussions with colleagues in other places, and now include some additional essays by some very distinguished authorities on international relations and law in order to give a broader sense of the conversations that have been emerging over the past year.

These essays do not constitute a unified perspective on what happened on 11 September 2001, and the US response to it. They are perhaps most usefully read as an experiment in writing contemporary history as it evolves. Some essays are primarily concerned to express immediate responses to the specific events of 11 September, while some struggle to make sense of these events in relation to subsequent conflicts in Afghanistan and the gradual shift towards a potential attack on Iraq that had taken centre stage by the time the book went to press in the summer of 2002. Some essays contradict others, some are quite specific, and others generalise very broadly. They all affirm, however, that there is no simple answer to difficult questions around the recent events, only a complex braid of explanatory factors that have yet to be fully evaluated. They especially affirm that no serious attempt to understand either the attacks of 11 September or the specific response to them can be made without considering the broad contradictions both in a globalizing political economy and the international system of formally sovereign states, as well as the patterns of inclusion and exclusion and the dynamics of militarization which these contradictions have generated. Like most acts of aggression, large-scale violence, and fanaticism in the contemporary world they were rooted in a sense of deep grievances that grew out of these contradictions.

We would like to thank the journal *Alternatives: Global, Local, Political* and the Keele European Research Centre for providing assistance with organising the Keele seminars and with the preparation of this volume, and Farzana Shain for designing the cover illustration.

Keele
July 2002

I

Reflections on 11 September

HIDEMI SUGANAMI

'Just about every crime—whether a robbery in the streets or colossal atrocities—has reasons, and commonly we find that some of them are serious and should be addressed'.¹

'But the mourning had barely begun, when the highest leaders of the land unleashed a spirit of revenge. They put out a simplistic script of "good versus evil" that was taken up by a pliant and intimidated media. They told us that asking why these terrible events had happened verged on treason'.²

I presented a paper on the events of 11 September at an Open Forum organised by my colleagues at Keele about a month after the incident. Titled simply 'Comments on the Attack on America', the paper summarised my immediate reactions to the events and my thoughts on the matter over the previous month. I prefaced my presentation by remarking that I did not usually comment, in public, on current affairs. They are, by definition, current, the future was uncertain; I liked certainties, and therefore comments on current affairs were not my kind of thing. But here, I said, was an exception—because I was deeply worried about the way the United States appeared to be responding to the incident at that time. Most of my concerns were shared by the other Open Forum speakers, Rob Walker and Patrick Thornberry, and, to a great extent, it appeared, by the audience—although one member of the audience felt that I was, with the other members of the panel, underestimating the need to deter future terrorist attacks by the use of force proportionate to that end.

It turns out that at least some of my immediate worries were exaggerated, although, I hasten to add, there was no way of knowing at that time, for anything like certain, that any of my views would turn out to have been overly pessimistic.³ And, in any case, the worst of my worries—mutual intensification, in scale and frequency, of terrorist/anti-terrorist attacks and counterattacks—remains a distinct possibility. The future, as always, is uncertain, but looking back at the past several months, I cannot help feel that at least one thing is now transparent to all: the unilateralism and remilitarization of what Robert Hunter Wade, among many others, has called 'The American Empire'.⁴

But now let me return to the thoughts that I had on the incident—already over a year ago—and restate my views as I hold them at present.

THE TRAGEDY IN CONTEXT

In the immediate aftermath of the terrorist attacks in the United States on 11 September, between 5,000 and 7,000 people were thought to have been killed; the estimated number was subsequently reduced to around 3,000— still, undoubtedly, a massive loss of innocent lives. The victims were innocent in the commonly accepted sense that they were civilians carrying out their day-to-day business without any intent to harm others. And some of them were, of course, firefighters trying simply to rescue the victims.

This was an extraordinary incident. I had never seen anything so spectacular on the TV screen. I do not say ‘spectacular’ because I am disrespectful of the lives lost or insensitive to the sufferings of the victims, their friends or relatives. But producing and broadcasting visual images of the sort that millions of TV viewers all over the world must have watched on that day, unable even to blink, and the collective act of watching them intently, necessarily turned the events into a spectacle. This must have been one of the aims of the attack’s planners. Distastefully, though not unintelligibly, there were also those in the streets of Palestine or Pakistan, who were reported, again on the TV screen, as no less than rejoicing over what was to them unapologetically a spectacle.

My own immediate reaction to the events was not so much to mourn the loss of so many thousands of innocent lives as to think of the *everydayness* of cruelty inflicted on many more thousands of innocent people all over the world. It seemed that many of those I spoke to around my university campus had a similar reaction. Thousands of people are dying everyday not necessarily because they are wilfully targeted as victims by their killers, but as a consequence—at least partly—of the workings of the global system dominated economically, politically, and militarily by the United States and its allies.⁵

The thousands of deaths in the United States constituted an extraordinary event. It took place in two prominent power centres of the world, New York City and Washington, DC—conspicuous, prosperous, and eminently secure (or so it seemed). It was wilfully brought about, and it was almost incomparably newsworthy. It is hard in fact to think of a historical parallel. Deaths by the thousands in other, far less conspicuous, largely impoverished, parts of the world do of course receive media attention, but only very selectively and occasionally—precisely because they are part of the everyday reality and because, by and large, these deaths are not brought about wilfully. But we could not responsibly say that structural mega-deaths are categorically less objectionable than wilful mass murders.

As I watched and watched again the spectacle of the two passenger aeroplanes, now transformed into weapons of mass murder and destruction, guiding themselves into the World Trade Center buildings one after the other, I

also began to see in my mind's eye geometrically very similar TV images from many months back—of an Israeli missile attack demolishing Palestinian police headquarters in retaliation for the murder of an Israeli soldier by a Palestinian mob. The attacks on 11 September, then, were perhaps also a hyper-escalatory phase in the so far endless chain of retaliatory use of violence in the tragic circumstances of the Middle East. Palestinian suicide bombings and Israeli counterattacks show no definite sign of abatement, and, if anything, the events of 11 September and the American 'War on Terrorism' appear to have contributed to entrenching both sides more deeply in their violent mutual definitions.

What seemed to me tragic about the events of 11 September, however, was this: so many innocent lives were sacrificed in an attempt (at least partly) to make the people of the United States realise the everydayness—either on the global plane or in parts of the Middle East—of severe insecurity and suffering, but such an attempt has had the opposite effect: the overwhelming American response was to talk in the language of 'restoring our freedom', meaning, primarily, the freedom of the American people to live their everyday lives without fear, the consequence of which has been remilitarization and the spread of anti-liberal tendencies.⁶

RESENTMENT AND POLITICS

'Explain to me. You are the expert. I don't understand. Why do they do it?', a neighbour demanded of me on the afternoon of the 11th. I do not in fact claim any specialist knowledge in the area of motivational analysis, but—and this may well be due to my lack of expertise in the field—I never actually felt that the motives of the terrorists were particularly puzzling. Plainly, to my mind, they were moved by their fanatical hatred, rooted in the intense resentment they felt towards the Americans. Of course, many of the victims were not American, but this could be explained away as damages collateral to their chosen aims. Maybe they never concerned themselves with such niceties—given that they were themselves to die for their cause.

The intense resentment on their part is in turn an outcome of a combination of a number of things: their fundamentalist disapproval of aspects of American (and more broadly Western) culture;⁷ their sense of near impotence in the face of the overwhelming might of the United States; their view of the wrongs done to their kind (however this may be defined) whether directly by the United States or by the American-dominated world system;⁸ and, on top of all that, the seeming obliviousness on the part of the American leaders and people of all such things.

Resentment is a poisonous, consuming emotion, and it is about time that analysts of motives in world politics should take it into account, in addition to all the standard explanatory concepts—national interest, expected utility, insecurity, honour, or identity.⁹

To say that the attackers were motivated by their intense resentment against the Americans is not to imply that the attacks had no rationale as a means to an

end. The fact of terrorism itself does not, of course, reveal to us the rationale behind it—for terrorism is not a doctrine about any particular end. It is a doctrine about a means to an end, according to which it is legitimate for the users of force (whether they be ‘terrorists’, guerrilla fighters, regular soldiers or other state agents) to resort to illicit forms of violence (often, though not necessarily, indiscriminate) intended primarily to terrorise the opponent in pursuit of some military gains or political concessions. The terrorism/non-terrorism divide is thus somewhat uncertain, and does not necessarily coincide with the legal line of demarcation between ‘terrorists’ and other users of force. The bombing of Dresden or the mass rape of Muslim women in Bosnia was terroristic as were the IRA’s bombing campaigns.

So, what might have been the gains or concessions the attackers on 11 September had hoped to obtain from the United States through their indiscriminate killings of thousands of innocent civilians? This is a difficult question to answer for the perpetrators never even identified themselves, let alone made any demands for concessions. Now practically everyone accepts that the multinational terrorist group, al-Qaida, led by Osama Bin Laden, was responsible for the attacks, although it might be remembered that the US bombing of Afghanistan began without sufficient incriminating evidence being presented to public scrutiny. Be that as it may, the attackers’ choice of their targets would seem to indicate that their aims were to express symbolically their determined refusal to be overwhelmed by the economic power and the military might of America.

But such actions would make sufficient *political* sense only if they were part of a larger campaign effectively to undermine American hegemony. And that was precisely what was foremost in many of our minds in the immediate aftermath of 11 September, as it seemed sensible then not to discount the possibility that the events of that day constituted a beginning of a series of pre-planned attacks on the United States and its allies, rather than just an isolated incident—terrifying though it was in its psychological effect and damaging to the American economy and prestige.

However, apart from just one other incident, in which a passenger aeroplane nearly blew up on its way from Paris to Miami, and a pathetic incident in Florida where a 15-year-old committed suicide by flying his light aircraft into an office building, there have been no incident so far to suggest that a long-lasting anti-American/Western terrorist campaign had just begun. What has happened instead is an apparent beginning of the American Empire striking back—for it was no less than a ‘War on Terrorism’ that the United States has declared under President Bush, eagerly supported ‘shoulder to shoulder’ by Prime Minister Blair.

It is at this point that we should briefly revisit the issue of motives and draw attention to the presence of a different, more political, interpretation of the events of 11 September. According to this view—favoured by Noam Chomsky¹⁰ among others—far from being a simple and straightforward manifestation of an anti-

American resentment, the attack was a product of a risky but clever calculation; a trap. According to this interpretation, the aim of al-Qaida leadership was precisely to lure the United States, through an irresistible provocation, into embarking on a campaign against Islamic fundamentalism. This would be to the advantage of the fundamentalists—inasmuch as it would force some of the precarious regimes in the region, most notably the ruling house of Saudi Arabia, to side with the United States, thereby delegitimising themselves further in the eyes of the local population and thus strengthening the cause of the fundamentalists.

This interpretation is compatible, of course, with the thought that the rise of fundamentalism itself is a manifestation of intense resentment against the circumstances of the world dominated by the West and in particular by the United States, and, more specifically, against the Western/American influence in the politics of the Middle East.

FIGHTING TERRORISM

Nothing I have said so far is intended to condone the attacks on 11 September. Clearly, some response was needed; ‘doing nothing’ was here inconceivable.

But what was, and is, troubling, is the United States’ explicitly and repeatedly stated intent to fight against *terrorism* (though, unsurprisingly, their focus is specifically on the anti-American variety). The obvious problem here is that terrorism is not a people inhabiting a particular space under a government, and we cannot therefore wage a war against it in a literal sense. We can try to bring particular terrorists to justice, or bring justice to the terrorists and those who harbour them, but this is not the same as wiping out terrorism as a doctrine or practice.¹¹

But let us confine our attention to the specific case at hand—for if the United States fails in this case, there is little hope of it obtaining any success in its much wider aims. What might be, or might have been, an appropriate way to respond to the events of 11 September such that it secures a satisfactory outcome in this case and contributes to reducing terrorist attacks in the future?

My chief criticism of the United States has been its increasingly transparent tendency to consider itself above the law. This does not necessarily mean that, in its fight against the Taliban and al-Qaida, the United States has consistently acted in such a way that its blatant violation of international law is for everyone to see. Rather, what is troublesome is the apparent presumption, on the part of the United States leaders, (1) that because its use of force is retaliatory, punitive and preventive, its legality need not seriously be questioned, and (2) that it can decide when to comply with the law in carrying out this round of war against terrorism.

Similar features may have been noted from time to time in the American (or any other Great Power) attitude towards international law especially with respect to the use of force, but that is no excuse. If it is terrorism that America and its

allies wish to fight, they must be anti-terroristic in their own approach, and being anti-terroristic means, among other things, that they must act, and must be seen to act, within the law. In my view, the American attitude so far has been too cavalier and counterproductive in the long run.

For one thing, the right of self-defence under Article 51 of the UN Charter does not permit states to use force in a retaliatory, punitive or preventive mode. What the United States should have done is to obtain the Security Council's decision, *under Chapter 7*, that Afghanistan's policy constituted a threat to peace, that it must surrender Osama Bin Laden for trial, and that force should be used as a sanction against Afghanistan if it were to refuse to do so. Those who were captured in combat should be treated in accordance with the Geneva Convention and those captives suspected of membership of al-Qaida brought to a fair trial.

What has in fact happened is the resort to force by the United States, whose legality remained largely unquestioned, and the capture of those suspected of al-Qaida membership, to whom the United States has unilaterally denied a PoW status. How these captives are actually treated in their prison is secondary to the much more fundamental issue—the apparent readiness on the part of the American leadership to assume that, whatever others may say or feel about the matter, it is they who will decide how the captives are to be treated, judged or punished. America, the victim now acts as the policeman, the prosecutor, the judge, the prison governor and, if necessary, the executioner.¹²

It may be objected to this line of thinking that it is politically naïve. When the State is under attack by internal terrorists (with or without an external support), its government will at times act in a manner whose legality is dubious. It may even resort to extra-legal countermeasures claimed to be necessary. If this is domestically 'the done thing', why apply a more stringent criterion internationally to a government when it reacts against external terrorists? What we have here is not a routine circumstance, but a case of emergency, and in emergency what is necessary must be done. What else can 'sovereignty' mean?

My response is that no sovereign states are above international legal duties; that the United States' use of force in the current case goes beyond what is permitted in emergency under Article 51 of the United Nations Charter; that America's unilateralist stance contributes in the long run to undermining the legal foundation of international interactions, which in fact could have been *strengthened*, had the United States acted more consonantly with its basic principles. Instead, we observe, exceptions are rapidly becoming the rule—force will be used as and when the United States considers it suitable, in retaliation, prevention or pre-emption.¹³

Nonetheless, it may be felt, that the massive overpowering of the Taliban, and apparently also of al-Qaida, within Afghanistan indicates that America has largely achieved its primary goals in Afghanistan itself. President Bush, who has enjoyed enormous popularity within the United States, has spoken of the next targets—Iran, Iraq and North Korea—said by him to form an 'Axis of Evil'.¹⁴