

**Robin Bowley, *Preventing the Maritime Facilitation of Terrorism: Maritime Terrorism Risk and International Law*. Routledge (2024). 310 pages.**

**[ISBN 9781032326801]**

David Letts\*

This is the second book by Robin Bowley in the Routledge Research in Terrorism and the Law series of publications. This book continues Dr Bowley's focus on dealing with the legal responses to maritime terrorism that was so ably captured in his previous publication: *Preventing Terrorist Attacks at Sea: Maritime Terrorism Risk and International Law* (Routledge, 2023).

The book contains eight chapters comprising a short introduction, six substantive chapters and a brief section of concluding recommendations. Two Appendices, a comprehensive Bibliography and an extensive Index complete the publication.

Why has this book been written? The author posits in the early part of the Introduction that the types of terrorism that now exist in the world are significantly different to the types of terrorism that existed prior to the attacks on the United States on 11 September 2001. He points to vulnerabilities that now exist, including those that emanate from terrorist activity that involves a maritime dimension, as being the catalyst for a number of reforms to what was the existing legal framework that could be applied to terrorist activity at sea. Amendments to existing international legal instruments in the wake of the 9/11 attacks, and the introduction of new instruments such as the *SUA Convention*<sup>1</sup> and its 1988<sup>2</sup> and 2005<sup>3</sup> *Protocols*, is seen by the author as resulting in a legal framework that is 'significantly improved' from what previously existed.

In conducting his analysis the author begins with Chapter One as his introduction, explaining the arguments that are raised in the book, the scope of the work, the methodology adopted including an assessment of the reliability of the information used in the research and an understandably limited assessment of the book's significance. Chapter One also contains an overview of the contents of the book's remaining seven chapters as a means of alerting the reader to the text that follows. All of this introductory information is useful in highlighting to the reader the substance of the six main chapters of the book which contain the bulk of the material upon which the book relies.

Chapter Two provides an assessment of the current state of global terrorism by looking through the lens of what are described as 'older forms of terrorism' and then contrasting these activities with 'contemporary' terrorism. As part of this process, the author has adopted the broad definition of terrorism contained in the 'Revised Academic Consensus Definition of Terrorism'<sup>4</sup> as the basis upon which terrorist activity will be assessed. The author's choice to use this definition of terrorism, in the face of evidence that is provided which explains that a universally agreed definition of terrorism is impossible to achieve, denotes an element of practicality being adopted in the book so that the substantive discussion is not weighed down by relatively insignificant preliminary issues. The remainder of Chapter Two consists of a general overview of terrorism in a number of ways before arriving at a relatively small section that deals with 'the threat of contemporary terrorism in the maritime domain' by drawing on the author's previous research on this topic (as mentioned above). The overall conclusion reached by the author is that the global terrorist threat generally, and the maritime terrorist threat in particular, is showing no signs of diminishing and hence the subsequent assessment in the book is both timely and needed.

A reasonably lengthy look at 'the international legal framework for preventing the maritime facilitation of terrorism' (ie 50 pages of the book) is undertaken in Chapter Three. Beginning with the 'global level' actions taken by the UN Security Council in the post-9/11 era, the chapter then looks at maritime specific action that the International Maritime Organisation has taken, and in particular the measures adopted under the *SOLAS*

---

\* Associate Professor, Australian National Centre for Ocean Resources and Security (ANCORS), University of Wollongong. Honorary Associate Professor, Australian National University College of Law.

<sup>1</sup> *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention)*, 1988, 1678 UNTS 221.

<sup>2</sup> 1678 UNTS 304.

<sup>3</sup> IMO Doc LEG/CONF.15/21.

<sup>4</sup> Alex Schmid, 'The Definition of Terrorism' in Alex Schmid (ed), *The Routledge Handbook on Terrorism Research* (Routledge, 2011) 39, 86.

*Convention*.<sup>5</sup> The most significant of these measures is said to be the introduction of the *International Ship and Port Facility Security Code* ('ISPS Code'),<sup>6</sup> and the author provides a careful assessment of the *Code* including the identification of weaknesses and remedies for these deficiencies that have been implemented. Other *SOLAS* action that is assessed includes vessel identification and tracking measures that require ships of more than 500 tons to use Automatic Identification Systems ('AIS') tracking at almost all times. Complementing this measure, and the *ISPS Code*, is the introduction of Long-Range Identification and Tracking ('LRIT'), whereby vessels transmit their location information at distances of up to 1000NM from an intended destination port. Enhanced seafarer identification requirements through agreement to the *Seafarers' Identity Documents Convention (Revised)* ('SID Convention')<sup>7</sup> are noted, as well as the pleasing level of acceptance of the revised *SID Convention* by a significant number of states that supply large numbers of international seafarers.

The final part of Chapter 3 looks at selected measures of the 1982 *United Nations Convention on the Law of the Sea (UNCLOS)*<sup>8</sup> which permit states to interdict vessels that are suspected of involvement in maritime terrorist activity. The author highlights that the *UNCLOS* is a document that necessarily contains ill-defined or vague terms, and this lends itself to 'constructive ambiguity' when States interpret the *UNCLOS*'s provisions with an obvious flow-on effect for effective universal enforcement measures. The interdiction measures contained in the 2005 *SUA Protocol* are discussed, but the author correctly notes that low ratification of that instrument hampers effective global action under it. Completing the chapter is discussion of international efforts to deal with terrorism financing by the UN and the OECD, which have had much more success in gaining acceptance from States—although whether successful action has occurred to the required level is less clear.

The next four chapters deal with: weapons of mass destruction ('WMD') proliferation by sea (Chapter Four); maritime trafficking of weapons and terrorist financing (Chapter Five); UK and Australian national measures to prevent maritime terrorism (Chapter Six); and the prospect of relying on Article 51 of the UN Charter as a 'last resort' for the interdiction of vessels suspected of involvement in maritime terrorism (Chapter Seven).

Each of these chapters provides a detailed assessment of the specific issue(s) that it is charged with addressing. Chapter Four's focus on WMDs is undertaken through looking at steps that can be adopted under the *ISPS Code* before spending the rest of the chapter looking in detail at the Proliferation Security Initiative ('PSI') and the activities that have occurred under that arrangement. Case studies are used to assess the acceptance of interdiction actions over the past few decades, with the author noting that interceptions of vessels by non-flag States have occurred without any significant protest or challenge to the legality of such action. Chapter Five examines similar issues that arise under non-WMD conventions and also looks at mitigation measures that can be adopted to prevent vessels being used for maritime terrorism financing. A large focus of the chapter is consideration of the *UNCLOS*'s provisions that provide jurisdiction to interdict in the maritime zones established under that Convention. Again, the conclusion has been reached that intercepts have occurred on the high seas and protest in relation to those intercepts have been largely absent.

Chapter Six looks at UK and Australian national maritime security arrangements, but the reason why these two States were chosen for comparison does not seem to have been clearly addressed by the author in either the Introduction or in Chapter Six. It can be assumed that Australia was a natural choice for this comparison, given the author's nationality, but why the UK was also chosen is unclear. This is a minor criticism that is not intended to detract from what seems to be the overall direction of the chapter—to advocate for wider ratification of the 2005 *SUA Protocol*.

Inclusion of Chapter Seven, with its focus on the possible use of Article 51 of the UN Charter to interdict vessels suspected of involvement with terrorist activities, appears out of place with the rest of the analysis undertaken in the book. Article 51 stipulates that States have an 'inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations'<sup>9</sup> and it would only be in exceptional circumstances that interdiction of a suspected terrorist vessel could be validly thought to sit within the parameters of Article 51. Unsurprisingly, the conclusion reached in this chapter is that use of Article 51 for this purpose should only be considered as 'an absolute last resort' with recourse to any of the other mechanisms that are covered earlier in the book being far preferable.

---

<sup>5</sup> *International Convention for the Safety of Life at Sea (SOLAS Convention)*, 1974, 1184 UNTS 278.

<sup>6</sup> 2003. Under *SOLAS Convention* (n 5), ch XI-2.

<sup>7</sup> 2003, 2304 UNTS 121.

<sup>8</sup> 1833 UNTS 3.

<sup>9</sup> *Charter of the United Nations*, 1945, XV UNCIO 335.

Chapter Eight is a relatively short summation of the earlier material presented in the book, including some recommendations regarding how States can best deal with the gaps that have been identified. The Chapter concludes with recommendations for further research on the topic, so perhaps the author is contemplating a third book in the series!

The book has been written in a style that makes reading each chapter an easy task, and the inclusion of a number of diagrams to supplement the text enhances the appeal of the publication. Each of the topics examined by the author in the substantive chapters has continued contemporary relevance and has been the subject of considerable difference of opinion between scholars and among States.

In terms of an overall assessment of this book, it succeeds in providing a selected picture of the scope of maritime terrorism responses that States have adopted to prevent the spread of maritime terrorism since the 9/11 attacks. The book does not attempt to cover the entire spectrum of maritime terrorism issues that are playing out in the world's oceans at present, as such a task would be almost impossible to achieve. Instead, the author has built the book in a sequential and logical manner and has identified a number of key maritime terrorism issues that are most prevalent in the post-9/11 era. The book takes a deep academic dive into the topics it addresses, with extensive footnotes and cross-references to relevant treaties and academic literature. Thus, the book is a useful addition to current literature and will appeal to scholars and practitioners with an interest in effective responses to maritime terrorism and addressing the freedom of navigation challenges being faced globally at present.