

CHAPTER 12 TERRORISM AND HUMAN TRAFFICKING

CHAPTER OUTLINE

- I.** Introduction
- II.** Terrorism, Treason, and Sedition
- III.** Terrorism Laws
- IV.** Constitutional Issues
- V.** Human Smuggling and Trafficking
- VI.** Federal Immigration and Trafficking Legislation

LECTURE OUTLINE

I. Introduction

Discuss how acts of terrorism have resulted in significant attention and have now become the focus of new terrorism laws created to protect national security.

II. Terrorism, Treason, and Sedition

Terrorism is a crime against the public and is now worthy of separate attention in the study of criminal law. The crime is defined by its public nature, intended to harm or disrupt the government. Although it is not new, and has been used by those with political, ideological, or religious intentions through history, its threat to domestic security has resulted in increased awareness and attention by lawmakers.

Treason is the only crime mentioned in the Constitution and provides that levying war upon the United States, or adhering to its enemies, or giving them aid and comfort, are acts of treason. The Constitution requires two witnesses or a confession to prove the offense.

Sedition is the act of inciting violence or insurrection against the government. It has been a crime in the U.S. since the late 18th Century, and prohibits the publication of false, scandalous, and malicious stories about the government.

III. Terrorism Laws

The common elements of terrorism are 1) the commission of an already established crime 2) the intention to coerce a population or influence a government, and 3) through the use of intimidation or fear. It may transcend the boundaries of the United States, which is international terrorism, or may be primarily within the boundaries of the U.S., which is

domestic terrorism. It may take the form of bioterrorism, aiding terrorists, financing terrorists, and the use of weapons of mass destruction, which are all separate federal crimes.

Discuss various federal laws that have been enacted in response to terrorist acts (FISA, AEDPA, and USA PATRIOT Act).

IV. Constitutional Issues

Discuss the traditional criminal justice system's due process model, intended to emphasize individual rights and liberties, with resulting consequences that a guilty person may go free. Contrast this with the focus on terrorism, where the breakdown in detecting and preventing acts of terrorism result in consequences similar to those caused by war.

Pose the question to students, are these issues of national security that are within the ambit of the military and its commander in chief, or do issues of due process bring the courts into play where they no longer defer to the executive branch.

Discuss recent cases of the U.S. Supreme Court, including the *Boumediene* decision. Should the courts become involved, or are these military issues? What about acts that occur on U.S. soil by the government? What about acts against citizens, or non-citizens?

V. Human Smuggling and Trafficking

Human smuggling is the facilitation, transportation, attempted transportation or illegal entry of a person across an international border, in violation of one or more laws of that country, either through clandestine measures or by deception, such as fraudulent documents. It refers to illegal immigration where the accused is paid to aid or assist in the border crossing. It generally occurs with the consent of the person being smuggled.

Trafficking in persons can be compared to modern day slavery. It involves the exploitation of an unwilling or unwitting person, through force, coercion, threat or deception, for the purpose of sexual exploitation, labor exploitation, and other human right abuses.

The distinction between smuggling and trafficking is often very subtle. The key components that distinguish trafficking from smuggling are the elements of fraud, force or coercion.

VI. Federal Immigration and Trafficking Legislation

Discuss the open borders of the United States, and federal legislation that has been passed to control or limit immigration (Chinese Exclusion Act, 1924 Immigration Act, the INA of 1952, and the TVPA of 2000). Is the U.S. a country that has effectively closed its borders to the "huddled masses" first as a result of prejudice, and now because of fear?

RESEARCH PAPER TOPICS

1. The United States is built upon a theory that our society is a melting pot of diverse people from different societies and cultures. How has that changed historically with the passage of laws that restrict immigration?

STUDENT ACTIVITIES

1. Have students debate the Constitutional implications that impact modern day issues such as terrorism, human trafficking, and prisoners of war.

CASE STUDIES

1. After reading the *Boumediene* case, research the cases of *Ex parte Milligan* and *Ex parte Quirin*. How did the U.S. Supreme Court deal with those cases? Contrast the cases and explain why the court reached a different result in each.

REFERENCES AND RESOURCES

1. Have students watch and report on the film “Rendition” the 2007 movie about a CIA agent who questions the government’s tactics, which include the use of water-boarding, on a suspected terrorist.

According to an ACLU website, **extraordinary rendition** is an illegal practice that was used by the Bush administration as part of the so-called "war on terror." It involves the apprehension of foreign nationals suspected of involvement of terrorism and their subsequent clandestine transfer to detention in secret CIA-run "black site" prisons outside the United States or by foreign intelligence agencies in countries like Jordan, Syria, Egypt or Morocco, where they are held without charge or trial and interrogated without legal restraints.