

deprives people of the privacy they need to make up their minds autonomously” (pp. 106–07). But Richards goes on to assert: “... my argument ... depends upon ... the surveillance causing a disruption in their intellectual activities” (p. 106). This makes the argument circular: surveillance that is by definition disruptive is clearly going to disrupt intellectual activities. Setting aside the circularity, there is of course a spectrum of disruption of free thought and free speech by various surveillance technologies; some will be more disruptive, some will be less so. The scope and form of disruption need to be weighed against the facilitation and encouragement of free speech and free thought enabled by the same technologies. This nuance is missing from Richards’s analysis, and perhaps he or others will further explore and test his hypothesis. Moreover, is it true that, “if we want to preserve our ability to think fearlessly” (p. 122), we need more privacy-protecting technologies? Anecdotally, real-world experience provides good grounds for the converse conclusion, as alluded to by the author (p. 175). Internet technologies and intermediaries such as Facebook have dramatically improved freedom of speech – a point not lost on autocratic governments around the globe, and famous instances abound from the so-called Arab Spring of 2011. For all the risks to intellectual privacy highlighted in this book, from Amazon knowing what we read, to Google knowing what we search for, and Facebook knowing who we are in touch with, the chilling of our intellectual vibrancy seems dwarfed, for now, by the massive impetus given to free speech (quite apart from the massive impetus given to intellectual vibrancy, as suggested above). A few words on the book’s style are in order. In this book, the writing is crisp and refreshing, with curious anecdotes, interesting analysis of a variety of cases, and particularly readable language which other scholars of law would do well to emulate.

In conclusion, this book is stimulating and thought-provoking, and is recommended for those with an interest in privacy, free speech, and the interplay of those with technological innovation. The legal history elements of this work are well argued and supported. The forward-looking claims and suggestions would benefit from further development and research, but hopefully this book will catalyse further discussion and investigation of whether and how new technologies enhance or constrain intellectual privacy, and how the latter can be protected and fostered despite the changing ways in which intellectual creativity is pursued and shared.

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*The Impact, Legitimacy and Effectiveness of EU Counter-Terrorism.* Edited by FIONA DE LONDRA and JOSEPHINE DOODY [Abingdon: Routledge, 2015. vii + 231 pp. Hardback £90. ISBN 978-1-138-85413-0.]

The European Union (EU) continues to play an important role in the development of counter-terrorism law more than a decade after the Al Qaeda attacks on 11 September 2001. Fiona de Londras and Josephine Doody’s edited collection is, therefore, timely. They have brought together an anthology of essays by specialists in the fields of counter-terrorism law, human rights law, and EU law that address key issues in a systematic, synthetic, and critical fashion. A principal merit of the editors is their approach – de Londras and Doody draw on legal, democratic, societal, and operational perspectives to produce an interdisciplinary examination of the impact, legitimacy, and effectiveness of EU counter-terrorism, thereby rendering the volume credible. To date, there has been little research conducted on the legitimacy,

impact, and effectiveness of EU counter-terrorism measures. A proper understanding of these issues is essential for reasonable analysis of how the EU has responded to terrorism. This edited collection excellently captures the relationship between the concepts of impact, legitimacy, and effectiveness when policy-makers are drafting and reviewing EU counter-measures. As a result, this book makes a significant contribution to the existing literature in the field.

Ben Hayes and Chris Jones's contribution, in ch. 2, highlights the expanding scope of EU counter-terrorism policy to include many measures that do not have a lot to do with counter-terrorism *per se*. The counter-terrorism classification of the measure can often be used as a means to vindicate the adoption of measures which would otherwise be contrary to the EU's obligations under human rights law. Likewise, Hayes and Jones found evidence to indicate that the majority of measures adopted by the EU have not been subjected to democratic scrutiny or an examination of their impact, legitimacy, and effectiveness (p. 38). So, it would seem that the author's research findings echo the European Parliament's requests for a more comprehensive appraisal of EU counter-terrorism policy (p. 39). Nevertheless, despite the tools at the EU institutions' disposal, concern remains that they are being underutilised and overlook crucial issues of civil liberty, human rights, accountability, democratic control, necessity, and proportionality in the counter-terrorism context (p. 38). The authors conclude that what is ultimately needed is "not simply the application of more robust deliberative and assessment procedures, but the giving of greater weight to counter-factual positions" (p. 39).

In ch. 3, Josephine Doody discusses the actors involved in developing EU counter-terrorism measures, determining that, in the aftermath of the Madrid Bombings in 2005, there was a general perception that legal and governance structures aimed at countering terrorism were "overcrowded, complex and confusing" (p. 62). Doody arrives at the conclusion that the terrorist threat has gradually evolved "from left- and right-wing groups motivated by nationalist and separatist ideologies to more disparate groups and lone actors motivated by extremist religious-based ideology" (p. 62). Over the past 40 years, the threat has ebbed and flowed but attacks "shock the political system into a legislative and institutional response, thus ensuring the institutionalization of counter-terrorism as a distinct policy area" (p. 62). She concludes that the "continuous supplementation of groups, organizations and agencies following particular events without the removal of existing structures contributes to what has quickly become a formidable and sprawling framework" (p. 62).

The excellent critiques in chs. 4, 5, and 6, by Mathias Vermeulen, Mederic Martin-Maze, Peter Burgess, and Yulia Chistyakova, respectively, consider the impact of EU counter-terrorism measures further. In particular, Yulia Chistyakova argues in favour of a re-examination of how input legitimacy, output legitimacy, and the impact of human rights are interconnected. She questions what evidence there is "to link certain restrictions of rights or liberties to certain gains in protection and/or reduction in risks" (p. 134). However, Chistyakova remains convinced that claims that counter-terrorism measures are needed "must be based on precise definitions and robust methods of evaluation in terms of input, output and rights legitimacy" (p. 134). The lack of a systematic, timely, and comprehensive evaluation means that EU counter-terrorism measures "are often based on ill-informed assumptions or unverified claims" (p. 134). She concludes that scholarly analysis of counter-terrorism policy is deficient due to insufficient research methods and, as a result, key questions about democratic legitimacy have been left unanswered (p. 135).

In ch. 7, Bruno Oliveira Martins discusses how complex political objects such as EU counter-terrorism policy need to be considered from a multi-disciplinary

perspective (p. 137). By contending that the constitutional foundations of the EU play a pivotal role in the implementation of its counter-terrorism measures, he discusses how it “performs the fundamental function of granting legitimacy to EU counter-terrorism law and policy and ensuring its recognition as socially acceptable” (p. 136). In particular, Martins found that “[i]n the process of policy and legal formulation in counter-terrorism the EU always employs the jargon of its constitutional foundations, namely the respect for fundamental rights and the rule of law” (p. 153). By conducting a sociological institutionalist analysis, Martins highlights the significance of the EU’s constitutional foundations in according legitimacy to its counter-terrorism policy (p. 147). He concludes that “EU counter-terrorism policy needs to carry the identities and roles of the EU, and its constitutional foundations are the markers of its character, history and visions” (p. 154).

Cian Murphy, Aldo Zammit Borda, and Lucy Hoyte’s contribution in ch. 8 swings the book in a different direction by presenting findings from research conducted as part of the SECILE project which sought to explore the limitations of our knowledge of EU counter-terrorism law and policy (p. 157). The authors assembled focus groups on the European Arrest Warrant (EAW), counter-terrorist finance (CTF), and EU border control databases (BOR) in order to explore the viewpoints of operational actors on the impact, legitimacy, and effectiveness of EU counter-terrorism law and policy. The focus groups comprised participants from a number of EU Member States including judges, prosecutors, law enforcement officers and government officials, and “provide a snapshot of the [interesting] perspectives of a small sample of counter-terrorism operatives on the law and policy they implement” (p. 180). The prevailing theme of the focus groups was that EU counter-terrorism law and policy “operate as a legitimate corollary to the free movement of capital, goods and persons that lies at the heart of the common market” (p. 179). In particular, one participant in the CTF focus group stated that “the development of counter-terrorist finance measures by the EU is necessary, owing to the development of the common market” (p. 179). So, for this participant, CTF measures are imperative to counteract the possible misuse of the common market by criminals (p. 179). This was a sentiment echoed by the participants in the BOR focus group. Murphy, Borda, and Hoyte thus conclude that “although we are now in a post-“war on terror” world, there [still] remain challenges in counter-terrorism law and policy” (p. 180).

Josephine Doody and Rosemarijn van der Hilst, in ch. 9, explore the impact, legitimacy, and effectiveness of EU counter-terrorism measures from the perspective of civil society and policy-makers. Their analysis illustrates that, although it could be presumed that civil society would be more disapproving of the measures than policy-makers, both groups actually have similar concerns (p. 181). The participants of the focus groups suggested that there are three types of impact: economic impact, legal impact, and practical impact which can be either direct or indirect. Notwithstanding the different types of impact discovered in their research, Doody and van der Hilst question whether different kinds of impact can be balanced, or whether they should prioritise instead (p. 188). In any event, the impact of a counter-terrorism measure on a person requires an appreciation of the degree to which a human right has been violated (p. 201). Essentially, determining societal impact requires an examination of how counter-terrorism measures influence democratic values, principles, and practices (pp. 193 and 194). From consultations with civil society, there would seem to be little to no link between the effectiveness of a measure and its impact and legitimacy. This is “primarily related to the fear that the effectiveness of a measure might be used to justify retroactively an otherwise illegitimate measure” (p. 202).

In the final chapter, Fiona de Londras explores the degree to which EU constitutionalism may be called into question with regard to the counter-terrorism measures so far developed at the European level. She excellently argues that there continues to be a friction between the making and implementation of counter-terrorism law and policy and posits that there is a need to further develop constitutionalist structures into EU counter-terrorism. A judicial review can only go so far in addressing this friction and so de Londras suggests that a “system of evaluative, participatory and rights-oriented effectiveness review” should be implemented instead (p. 227). One argument she advances in favour of this approach is that it “would allow for the impact of a measure on rights, as well as more broadly, to be properly identified and understood . . . which in turn would aid legitimacy by testing the rationale for the measure’s introduction in the first place against the reality of its operation” (pp. 227 and 228). She suggests that the reviews should take place on a regular basis in public and be participatory and “capable of bringing about the policy, legal, practical and political reorientation by providing a rigorous evidence base for policy (re)evaluation” (p. 228).

Overall, this book is an excellent addition to the debate and dialogue on EU counter-terrorism. As well as providing a unique insight into the effectiveness of the EU in countering terrorism, the book also demonstrates how the rest of the international community could well take note of the EU’s approach to the prevention of terroristic activity. What is most significant about the book – and should not go underestimated – is the emphasis it places upon the primacy of impact, legitimacy, and effectiveness. It demonstrates how these three concepts are a central part of the overall EU counter-terrorism strategy, and its effective implementation and clear legal contours are vital to its existence. Fundamentally, this collection of essays provides clarity on these interpretive issues and suggests approaches for overcoming the challenges that the rapid growth of the EU’s counter-terrorism strategy has garnered. This book will be useful not only for academics, but also for legal practitioners and students, who are invited to reflect on the complex nexus between the EU and counter-terrorism law and policy.

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