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Citation for published version (APA):

Sullivan, G. (2017). The Law of the List: UN counterterrorism sanctions and the politics of global security law

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The Law of the List:

UN Counterterrorism Sanctions and the Politics of Global Security Law

Gavin Sullivan

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THE LAW OF THE LIST: UN COUNTERTERRORISM SANCTIONS
AND THE POLITICS OF GLOBAL SECURITY LAW

ACADEMISCH PROEFSCHRIFT

ter verkrijging van de graad van doctor

aan de Universiteit van Amsterdam

op gezag van de Rector Magnificus

prof. dr. ir. K.I.J. Maex

ten overstaan van een door het College

voor Promoties ingestelde commissie,

in het openbaar te verdedigen in de Agnietenkapel

op dinsdag 21 maart 2017, te 12:00 uur

door Gavin Sullivan

geboren te Sydney, Australië

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Acknowledgements

A book is always a multiplicity. There have been many that have helped this research come to life. I have been privileged to have had two excellent supervisors, both at the cutting-edge of their research fields, whose ideas have helped assemble this text and who have both been ideal mentors. Marieke de Goede has nurtured and developed this project with me from the beginning. It was her innovative work on pre-emptive security that first inspired me to come back to university to undertake this research. Her method of combining empirical analysis with conceptual innovation is energising and has left a lasting impression on how I think and write, for which I am immensely grateful. She has engaged with my work critically and pragmatically and has helped me learn how to publish and teach. And she afforded me time and understanding when I needed it, allowing me to juggle my professional and family lives without crisis. Mariana Valverde has also inspired and shaped this project in countless ways. We first met through our shared love of Peter Goodrich's book, *Languages of Law*. Since then she has shown me - both through her work and engagement with my own research - what critical, dynamic and inventive socio-legal research can look like. Her empirically-nuanced body of work on the knowledge practices and spatiotemporal dimensions of legal governance is a continuing source of inspiration and runs through the different chapters of this book. She has been intellectually generous, frank and has helped me to not be too wordy when I didn't need to be. Both Marieke and Mariana were also merciful with their comments in the final stages, which helped bring the project to completion.

Amir Attaran and Kim Lane Scheppele inspired me, both intellectually and politically, to undertake critical empirical research on global security law. Both supported and encouraged my early research on terrorist blacklisting at a time when it was sorely needed, for which I am grateful. Amir urged me to make whatever I do 'forensically valuable' for others seeking to understand and challenge this global regime down the line. Kim was one of the first to grasp the constitutional and political significance of the Security Council's post-9/11 'anti-terrorism campaign' and has been both friend and intellectual mentor throughout. Without the engagement of friends and colleagues in Amsterdam this project would never have been realised. I particularly wish to thank Julien Jeandesboz, Geoff Gordon and Francesco Ragazzi for the innumerable discussions over coffee, lunch and drinks. You made undertaking this research more exciting and far less isolating than it could have otherwise been – my apologies if I talked about my PhD too much. Wouter Werner has been an important interlocutor and collaborator throughout this project, who has always engaged with and supported my research and been a pleasure to work with. Merijn Oudenampsen has been a solid friend who has had my back for years, for which I am immensely grateful and bestow upon thee the honour of 'paranymph'!

I was invited to a number of events throughout this project that allowed me to present work-in-progress and get a clearer sense of how my research could draw from and speak to current debates. Wouter Werner at VU University Amsterdam coordinated the COST Action IS1003 *International Law between Constitutionalisation and Fragmentation. The Role of Law in the post-national constellation*, which hosted numerous workshops (in Amsterdam, Malaga, Lund, Copenhagen and Weimar) from 2012 – 2014 that helped shape the contours of this book. I am grateful to Peer Zumbansen and Prabha Kotiswaran for inviting me to participate in the inspiring Transnational Law Summer Institute (TLSI) at Kings College London in 2015 and 2016 and for showing an ongoing interest in my work. Francesca Galli from Maastricht University asked me to a workshop on terrorist listing in Brussels in 2012 that helped influence chapter 4. Deirdre Curtin invited me to a transnational law workshop at the University of Amsterdam in 2013 that forced me to situate my research in relation to postnational legal theory debates. Thanks to Susanne Krasmann and Sven Opitz for organising the *Materiality of Law and Global Politics* event at the University of Hamburg in 2014 that helped clarify my relation

with Bruno Latour's work and allowed me to present the early draft findings of chapter 2. Enrica Rigo and Alice Riccardi kindly invited me to Roma Tre University in 2012 and 2014 to present my research on the UN1267 Ombudsperson at different stages of development. Many thanks to Morag Goodwin and Philip Paeiment from Tilburg Law School for having me participate in their innovative Global Law Lab series. Various people have given feedback on draft papers at conferences that ultimately made their way into this book. Thanks to Claudia Aradau, Jens Bartelson, Rocco Bellanova, Christian Bueger, Grainne de Burca, Campbell Munro and Nik Rajkovic for their engagement and helpful suggestions.

This book was completed from the University of Kent amongst wonderful new colleagues and within a stimulating and critical environment. Thanks to Emilie Cloatre and Donatella Alessandrini from the Social Critiques of Law (SOCRIL) research group at Kent Law School for inviting me to present my research in 2014 and showing me that the University of Kent is an ideal place for undertaking cutting-edge socio-legal work. I would especially like to thank my head of school Toni Williams for affording me the space and time to finish this manuscript on the job and Dermot Walsh for pushing me to prioritise completion above all else and to ignore the things that didn't matter. Kate Wood provided research assistance in the final phase at a critical time, for which I am also very grateful.

This research would not have been possible without all of the interviewees who generously gave their time and shared their knowledge about the listing regime and its politics. I wish I could thank you personally, but I promised anonymity. My hope is that you find that this book resonates with your work in some way and informs your thinking and practice on this issue. Conducting global multi-sited research on a tight budget would have been impossible were it not for friends hosting me in different cities around the world. Special thanks to Sanjay Pinto and Avy Skolnik (in New York), Rafael Navar (Washington DC) and Aaron Chappel (in Brussels) for their hospitality and engagement. This project also relies on classified US Embassy cables bravely leaked by Chelsea Manning - who is currently serving a 35-year sentence at Fort Leavenworth maximum-security military prison in Kansas, USA - and published by Wikileaks. My thanks and solidarity go to them for making this material available for public use, at great personal cost in spite of the severity of the consequences that they could (and do) face.

This project began in 2011 two months before the birth of my first daughter, Nova, and at the end of 2014 my second daughter, Aelle, was born. Writing a PhD with two little children is a challenge. But it is with deep love and gratitude that I thank both my extraordinary kids for being with me throughout this project. They certainly made it harder at times by stealing my sleep, time and attention. But they bring joy and unbridled enthusiasm and with them I experience the world differently each day. And for that I am immensely grateful. When Nova told me a character in one of her made-up stories was called 'Ever' after 'your book, because it goes on for ever', I knew it was time to end it and submit. I want to also acknowledge the contribution of my parents, Rhonda and Peter Sullivan, who have always supported and encouraged me in what I want to do, however uncertain it may seem at the time. My sister, Tracey Sullivan, also helped along the way - including by transcribing some of my interviews! And without the affective labour of my mother-in-law, Guadalupe Alzaga, this project would have never finished. Thank you for nurturing my kids when this project demanded more of my time. My deepest thanks go to my partner and accomplice, Valery Alzaga, for her unwavering support, love of learning and belief in the importance of what I'm doing. During this project we have crossed three countries, had two kids, changed careers and cut through innumerable problems together with creativity, verve and grace. She critically engaged with and helped shape the ideas of this book in countless ways and reminded me of its underlying politics, when I had forgotten.

Finally, I wish to acknowledge the publications in which versions and parts of this book have appeared. A small part of chapter 1 previously appeared in: Louise Boon-Kuo, Ben Hayes, Vicki Sentas and Gavin Sullivan, *Building Peace in Permanent War: Terrorist Listing and Conflict Transformation* (Transnational Institute 2015). Parts of chapter 2 were published in: Marieke de Goede and Gavin Sullivan, 'The Politics of Security Lists' (2016) 34(1) *Environment and Planning D: Society and Space* 67. Small parts of chapters 1, 3 and 4 were published in: Gavin Sullivan, 'Transnational Legal Assemblages and Global Security Law: Topologies and Temporalities of the List' (2014) 5(1) *Transnational Legal Theory* 81, and Gavin Sullivan and Ben Hayes, *Blacklisted: Targeted Sanctions, Pre-emptive security and Fundamental Rights* (ECCHR 2011). Parts of chapter 3 previously appeared in: Gavin Sullivan Marieke de Goede, 'Between Law and the Exception: The UN 1267 Ombudsperson as a Hybrid Model of Legal Expertise' (2013) 26(4) *Leiden Journal of International Law* 833. A small part of chapter 4 was published in: and Gavin Sullivan, 'Secret Justice inside the EU Courts' *Al-Jazeera* (online, 19 April 2014). Finally, a small part of conclusion will be published in: Gavin Sullivan, 'Rearranging Global Law: Reflections on *Laws and Societies in a Global Context*' *International Journal of Law in Context* (forthcoming 2017). Financial support for this project was provided by the Amsterdam Institute for Social Science Research (AISSR) and the Dutch Council for Scientific Research (NWO), through the VIDI-grant 'European Security Culture', award number 452-09-016. All websites referenced below are current and were last accessed on 31 August 2016.

Abbreviations

AG – Advocate General
ANT – Actor-Network Theory
API – Advanced Passenger Information
AVSEC - Aviation Security Plan of Action
CSIS – Canadian Security Intelligence Service
CTC – Counter Terrorism Committee
ECJ – European Court of Justice
ECtHR – European Court of Human Rights
EGC – European General Court
EU – European Union
EUI – European University Institute
FOIA – Freedom of Information Act
FTF – Foreign Terrorist Fighter
GAL – Global Administrative Law
GDS – Global Distribution Systems
HRC – Human Rights Committee
IATA – International Air Transport Association
ICAO – International Civil Aviation Organisation
ICCPR – International Convention on Civil and Political Rights
IO – International Organisation
IR – International Relations
NGO – Non-Governmental Organisation
OFAC – Office of Foreign Assets Control
PNR – Passenger Name Record
R2P – Responsibility to Protect
SARPS – Standards and Recommended Practices
SCAD – Security Council Affairs Division
SCR – Security Council Resolution
SIAC – UK Special Immigration Appeals Commission
STS – Science and Technology Studies
TPN – Transnational Policy Network
UK – United Kingdom
UN – United Nations
UNSC – United Nations Security Council
US – United States
USAP – Universal Security Audit Programme
WTO – World Trade Organisation

List of Cases

International and Regional

Court of Justice of the European Union

- Case C-155/79 *Australian Mining and Smelting Europe Ltd. v Commission* [1982] ECR 1575 (170)
- Case T-306/01 *Yusuf and Al Barakaat International Foundation v Council and Commission* [2005] ECR II 3533 (90)
- Case T-315/01 *Kadi v Council and Commission* [2005] ECR II 3649 (90)
- Case T-228/02, *Organisation des Modjahedines du peuple d'Iran v Council of European Union* [2006] ECR II 4665 (160)
- Joined Cases C-317/04 and C-318/04, *European Parliament v Council* [2006] ECR I 4721 (71)
- Joined Cases T-125-03 and T-253-03, *Akzo Nobel Chemicals Ltd and Akcros Chemicals Ltd v Commission* [2007] ECR II 3523 (170)
- Joined Cases C-402 P and 415/05 P *Kadi and Al Barakaat v Council and Commission* [2008] ECR I 6351 (5, 90, 161)
- Joined Cases C-402/05 P and C-415/05 P, *Kadi and Al Barakaat v Council and Commission*, [2008] ECR I 6351, Opinion of AG Poiares Maduro (7, 90)
- Case T-85/09, *Kadi v Commission* [2010] ECR II 5177 (90, 157)
- Case C-27-09 P *French Republic v PMOI* [2011] ECR I 13427, Opinion of AG Sharpston (163)
- Joined Cases C-584/10 P, C-593/10 P and C-595/10 P *Commission, Council and United Kingdom v Kadi* [2013] Nyr (17, 91, 158)
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- Case T-306/10, *Yusef v Commission* [2014] Nyr (171)
- Case T-127/09 RENV *Abdulrahim v Council and Commission* [2015] Nyr (180)

European Court of Human Rights

- A and others v United Kingdom* App. No. 3455/05 (ECtHR, 19 February 2009) (166)
- Al-Dulimi and Montana Management Inc. v Switzerland* App. No. 5809/08 (ECtHR, 26 November 2013) (89, 124)
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Canada

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Germany

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Switzerland

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United Kingdom

R v Goldstein [1983] 1 WLR 151 (120)
R v Secretary of State for the Home Department, Ex p Simms [2000] 2 AC 115 (87)
Secretary of State for the Home Department v Rehman [2001] UKHL 47 (163, 169)
A and others v Secretary of State for the Home Department (No 2) [2005] UKHL 71 (143, 144, 148, 171)
HM Treasury v Ahmed and Others [2010] UKSC 2 (3, 86)
Youssef v Secretary of State for Foreign and Commonwealth Affairs [2016] UKSC 3 (128)
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- Interview B Interview with current member of the 1267 Monitoring Team
New York, June 2014
- Interview C Interview with former member of the UN1267 Sanctions Committee
New York, June 2014
- Interview D Interview with former member of the UN 1267 Monitoring Team
October 2013 (Location omitted to preserve anonymity)
- Interview E Interview with International Civil Aviation Organization official
Montreal (via Skype), March 2014
- Interview F Interview with former member of the 1267 Monitoring Team
New York (via Skype), June 2014
- Interview G Interview with Watson Institute scholar
Toronto, March 2014
- Interview H Interview with former UN Secretariat official
New York, June 2014
- Interview I Interview with former member of the Monitoring Team
New York (via Skype), August 2014
- Interview J Interview with former UK Foreign and Commonwealth Office (FCO) Director
London, April 2013
- Interview K Interview with the former UN 1267 Ombudsperson, Kimberly Prost
New York, November 2012
- Interview L Interview with the former UN 1267 Ombudsperson, Kimberly Prost
New York, June 2014
- Interview M Interview with member of European Commission Legal Service
Brussels, November 2012
- Interview N Interview with member of the European General Court
Luxembourg, March 2013
- Interview O Interview with member of the European External Action Service (EEAS)
Brussels, March 2013
- Interview P Interview with member of European Court of Justice
Luxembourg, March 2013
- Interview Q Interview with member of Council of the European Union
Brussels, March 2013

Interview R Interview with a member of the Commission Legal Service
Brussels, October 2013

Additional Interviews

Interview with member of the German Mission to the UN
New York, November 2012

Interview with member of the Swiss Mission to the UN
New York, November 2012

Interview with two members of the UK Mission to the UN
New York, November 2012

Interview with member of the US Mission to the UN
New York, November 2012

Interview with lawyer representing targeted individuals
London, March 2013

Interview with former member of the UK Sanctions Unit
London, April 2013

Interview with member of the UK FCO Sanctions Team
London, April 2013

Interview with lawyer representing targeted individuals
London, May 2013

Interview with lawyer representing targeted entities
Washington DC, June 2014

Interview with member of the German Mission to the UN
New York, June 2014

Interview with member of the US Mission to the UN
New York, June 2014

Interview with expert from INTERPOL
New York (via Skype), September 2014

Interview with expert from International Air Transport Association (IATA)
Montreal (via Skype) October 2014