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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

**Promotiecommissie:**

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## The Law of the List: UN Counterterrorism Sanctions and the Politics of Global Security Law

<i>Acknowledgements</i>	iv
<i>Abbreviations</i>	vii
<i>List of Cases</i>	viii
<i>List of Figures</i>	x
<i>List of Interviews</i>	xi
<b>1. Introduction: The Law of the List</b>	<b>01</b>
Four Walls of Scholarship	06
Studying Global Security Law in Motion	10
Notes on the Method Assemblage	19
Structure of the Book	29
<b>2. Global Listing Technologies and the Politics of Counterterrorism Expertise</b>	<b>33</b>
The List as a Technology	36
The Technics of Global Counterterrorism and the Politics of Rendering Technical	40
Threat Emergence and the Global Optic	45
Interoperability and the Politics of Formatting	65
What's in a List? Inscription, Translation and Pre-emptive Security Governance	77
<b>3. The List as Multiple Object: A Critical Genealogy of the UN1267 Ombudsperson</b>	<b>80</b>
The Legal List: Asserting Rights and Pursuing Accountability in the Courts	84
The Humanitarian List: Academic Expertise and the Ethics of Targeted Sanctions	93
The Living List: the Al-Qaida Monitoring Team as Accountability Reform Advocates	108
The Compliant List: Global Constitutionalism and the UN Special Rapporteurs	118
The Credible List: the Security Council P5 Making the Global Exception Durable	127
The Assembled List: the Ombudsperson as Boundary Object and Figure of Expertise	136
Multiplicity and Experimentation in Global Exceptional Governance	148
<b>4. Complexity in the Courts: Mapping the Spatiotemporal Dynamics of the List</b>	<b>152</b>
Non-synchronous Law and the Use of Intelligence-as-Evidence	155
Dis-located Law: Taking Listing Decisions Beyond the Vanishing Point of Review	172
Spatiotemporal Dynamics and Global Legal Assemblage	183
<b>5. Conclusions</b>	<b>187</b>
The Law of the List: Key Arguments	187
Original Contributions of the Study	191
From Al-Qaida to ISIL: The Global Law of Endless War	200
Bibliography	203
Summary	233
Samenvatting	237

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## 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)
- Joined Cases C-584/10 P, C-593/10 P and C-595/10 P, *Commission, Council and United Kingdom v Kadi* [2013] Nyr, Opinion of AG Bot (138, 168)
- 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)
- Al-Khawaja and Tahery v United Kingdom* App. Nos. 26766/05 and 22228/06 (ECtHR, 15 December 2011) (156)
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#### Switzerland

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*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)  
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*Youssef v Secretary of State for Foreign and Commonwealth Affairs* [2016] UKSC 3 (128)  
*Bank Mellat v HM Treasury* [2013] UKSC 38 (169)

#### United States

*Hamdan v Rumsfeld*, 548 US 577 (143)

## List of Figures

Figure 1	Excerpt from the UN1267 Al-Qaida Sanctions List	4
Figure 2	Social Network Map of Al-Qaida according to the UN1267 list entries	13
Figure 3	Narrative Summary of Reasons, showing ‘associations’ with other listed individuals.	50
Figure 4	‘Equilibrium of Possibilities’ diagram provided by Monitoring Team member in interview, June 2014	53
Figure 5	The ‘Staircase to Terrorism’ model used by the Belgian government’s <i>Community Policing Preventing Radicalisation and Terrorism</i> initiative	55
Figure 6	Interpol-United Nations Special Notice (Public Version), 2006. Reproduced in UN Doc. S/2006/154 (10 March 2006) 29.	66
Figure 7	Abousfian Abdelrazik at a press conference in Montreal, 15 June 2011	85
Figure 8	Participants in Watson Institute workshop on UN Sanctions Reform Brown University, 16 - 17 July 2004.	98
Figure 9	Kimberly Prost, UN1267 Ombudsperson 2010 - 2015	143

## List of Interviews

### Primary Interviews

- Interview A Interview with former member of the 1267 Monitoring Team  
New York, November 2012
- 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