

Book Review

National Security, Public Health: Exceptions to Human Rights?

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National Security, Public Health: Exceptions to Human Rights?

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182 pp.

\$147.34

ISBN 978-113819378-9

In this book, which was the result from a previous meeting (National Security and Public Health) held in 2014 at the Institute of Advanced Legal Studies in London, Feinberg, Niada-Avshalom & Toebe present 8 interesting chapters, organized around the idea of risks and human rights. Not only the outbreak of Ebola virus in Africa that escaped the control of Western nations, towards terrorism, the state of exemption produced by emergencies in democratic countries seems to be one of the main philosophical dilemmas in the study of international relations. Over recent decades, those legal resolutions passed to prevent terrorism ushered citizenry into an authoritarian atmosphere where individual rights are gradually curtailed. Given this controversy, editors raise the pungent question, to what extent does protection for individuals overweight national security?

As this backdrop, readers will find that the first chapter, in charge of Myriam Feinberg, explores the legal dichotomies of UN resolution to support the war on terror in an international scale. While resolution 1967, which was legally sanctioned by UN Security Council blamed Taliban regime in the responsibilities to prevent the rise of terrorism in Afghanistan and Pakistan, Res. 1373, rather, gives to the discretion of states the necessary steps to freeze assets of terrorists cells or pressing governments to act against terrorism in the best way they can. It opened the doors for serious asymmetries in the mode that violence and terrorism is tackled by governments. Based on Kadi study-case, she acknowledges that many states violate human rights in quest of further security or in the name of efficacy. This suggests a much deeper conflict between being free and being safe. Both mainstream values, far from being contradictory, may very well work in combination within democracies. In the second chapter Dimitrios Kagiarios explores the intersection of national security with the freedom of speech. The regime of protection of whistle-blowers in US and UK rests on three doctrinal pillars, which encompass: a) the disclosures of intelligence officials, b) some reductions in the sanctioning whenever the information is useful to prevent next terrorist attacks and c) the protection from reprisals or any type of attack by the side of involved parts.

In the third chapter, Jonhatan Hafetz analyses the role of transnational justice in context of post 9/11. If in the fields of legal studies, the accountability of human rights violation plays a crucial role, no less true is that US was prone to legitimate practices related to torture and human rights violation in the name of national security. In consonant with this guide-lines, Solo Salomon (throughout fourth section) discusses critically to what extent Israeli Supreme Court supported the legality of some violent actions conducted by local Government. Although security seems to be a decisive factor, in some cases which do not threaten the public order, the same invocations are conducive to discipline the others. It is important not to lose the sight that unfortunately terrorism draws a discourse, which is used in order to enhance the control in different fields of the law. Manipulated to press judges, *the discourse of fear* facilitates programs and policies which otherwise would be declared unconstitutional. Likely, in one of the most interesting chapters of this project, Michael Crowley and Malcolm Dando reveal countries as Russia, Israel and China have acquired “chemical agent weapons”, denying the already existent conventions established in 1977. This stems from the lack of an all-encompassing legislation that regulates the circulation of these types of materials worldwide. There is a great “regulatory lacunae”, as well as the absence of a strict interpretation that prohibits the use of Chemical Weapons in the national territories of states. The paradox lies in the fact that the same state originally oriented to enhance the security of citizens, is the same which may potentially use these weapons against some ethnical minorities when the opportunity arises. This is the main point of entry in this discussion that leads (In chapter 6) Brigit Toebes to question the role of international law in the human right protection. Despite the mentions of public health in the international legislation, under some conditions, the liberality may become in an iron-cage. Rights as intellectual property, transportation, and trade which are economically co-determined, can be counterproductive to forge national collective interests that sooner or later vulnerate the rights of some minorities. Last but not least, in the restant chapters, Andraz Zidar and Laura Niada-Avhsalom extert a radical critique to the right of health as well as WHO international Health regulations. This sentiment of scepticism is given by the asymmetries produced by bio power in different regions and geographies. Not only the rights to medicines are not granted for all citizens, but bio-capitalism, in terms of Kaushik Sunder Rajan (2012,) is replicating the old logic of the liberal market in reinforcing the centre-periphery dependence.

Although oriented in different direction, all cited chapters are forming an excellent conceptual framework, which should trigger a hot-debate in next years. Basically, what scholars should unravel is the intersection of the hobessian needs for protection, within a more egalitarian society. In this respect, we have historically witnessed the limitations of positive law to prevent nation-states to affect the interests of some unvoiced minorities and of course, the law does not suffice to ensure a global international enforcement for individual rights. From the logic of e-surveillance towards torture, terrorism poses a great dilemma for West, which is far from being solved. If the state of emergency provides governments with substantial exceptions to violate the constitution, no less true is that terrorism is wreaking havocs the tenets of democracies to the extent of pressing governments to reaching consensus on “the Kantian peace”, which means the supremacy of only one state over others. This concern originally formulated in Hobbesian studies opens the doors for a paradoxical situation which express by the fact that “the dictatorship of only one police-state is ideologically legitimized by the needs of homogenizing human rights legislation or applications”. Doubtless, this is the main point, this elegantly-written book is grappling with, and to me, the best reason to spend time in reading its fascinating 8 chapters.

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Maximiliano E. Korstanje is Associate Professor at University of Palermo, Argentina and Editor in Chief of the International Journal of Safety and Security in Tourism. With more than 650 published papers in peer review journals, Korstanje is concerned in the study of risk, capitalism and mobility. He co-edits 10 journals, and takes part of editorial board list of other 25 specialized journals. From 2010 his biography is a point of entry in Marquis Who's Who in the World. He was awarded as Outstanding reviewer 2012/2013 for Emerald Group Publishing, UK. Because his contribution to the sociology of tourism, Korstanje has been nominated for three honorary doctorates