

# Contents

---

<i>List of contributors</i>	vii
<i>Foreword</i>	ix
Martin Scheinin	
1. Introduction	1
<i>David Cole, Federico Fabbrini and Arianna Vedaschi</i>	
PART 1 SECRECY AND COURTS	
2. Terrorism and security: back to the future?	13
<i>Lord Justice (retired) Stephen Sedley</i>	
3. Oversight of national security secrecy in the United States	22
<i>Stephen Schulhofer</i>	
4. Secrecy vs. openness: counterterrorism and the role of the German Federal Constitutional Court	44
<i>Mindia Vashakmadze</i>	
5. Formalism and state secrets	57
<i>Sudha Setty</i>	
PART 2 SECRECY AND LEGISLATURES	
6. Direct and indirect access to intelligence information: lessons in legislative oversight from the United States and Canada	75
<i>Kathleen Clark and Nino Lomjaria</i>	
7. <i>Arcana Imperii</i> and <i>Salus Rei Publicae</i> : state secrets privilege and the Italian legal framework	95
<i>Arianna Vedaschi</i>	
PART 3 SECRECY AND DETENTION	
8. Managing secrecy and its migration in a post-9/11 world	115
<i>Kent Roach</i>	

9. National security, secret evidence and preventive detentions:  
the Israeli Supreme Court as a case study 133  
*Shiri Krebs*
10. Secrecy and control orders: the role and vulnerability of  
constitutional values in the United Kingdom and Australia 154  
*Andrew Lynch, Tamara Tulich and Rebecca Welsh*
11. Comparative advantages: secret evidence and ‘cleared counsel’  
in the United States, the United Kingdom and Canada 173  
*David Cole and Stephen I. Vladeck*

#### PART 4 SECRECY AND CRIMINAL TRIALS

12. The normalization of anonymous testimony 195  
*Jason Mazzone and Tobias Fischer*
13. Terrorists on trial: an open or closed case? 209  
*Clive Walker*
14. In/visible courts: military tribunals as other spaces 229  
*Ori Aronson*

#### PART 5 SECRECY AND ADMINISTRATIVE MEASURES

15. Administrative counter-terrorism measures – a strategy to  
circumvent human rights in the fight against terrorism? 249  
*Tuomas Ojanen*
16. Secret evidence in EU security law: special advocates before  
the Court of Justice? 268  
*Cian C. Murphy*
17. Global sanctions, state secrets and supranational review:  
seeking due process in an interconnected world 284  
*Federico Fabbrini*
18. Secrecy regulation by the European Union inside out 302  
*Deirdre Curtin*
19. Concluding remarks 322  
*Justice (retired) Lech Garlicki*

- Index* 339