

Theorising EU Counter-terrorism

Written by Javier Argomaniz

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JAVIER ARGOMANIZ, AUG 29 2013

As a reaction to the terrorist attacks in New York, Madrid and London, the European Union (EU) has become increasingly active in the field of counter-terrorism. It has acted to coordinate member states' policies, to harmonise national legislation, and even to support operational work conducted by national authorities. The EU's reaction to the threat of transnational terrorism has been complex and multidimensional, ranging from the exchange of information between police and intelligence agencies to judicial cooperation, and from infrastructure protection to the fight against terrorist recruitment and financing.

Unsurprisingly, the emergence of the Union as a counter-terrorist actor is a topic that has attracted growing interest. So far most scholarly studies have focused on the nature and scope of the EU policies and their impact on civil liberties. These works are indeed very valuable: they have led to sharp criticisms regarding the limitations of the European response, calls for greater transparency on how decisions are adopted in Brussels and warnings about the potential deleterious effect of some of these measures on privacy and other citizens' rights.[1]

At the same time, with very few significant exceptions and in contrast with the more numerous normative prescriptions or descriptive analyses, there has been an absence of a systematic drive to build, expand or apply theories to the study of EU counter-terrorism. In short, EU C-T remains under-theorised: there is a clear need for more theory-driven attempts at better understanding the mechanisms and logics that shape EU action in this area. This is indeed regrettable since constructive exercises in conceptualisation can deliver much needed order and coherence to the growing number of empirical analyses generated in recent years.

It is the argument of this piece that applying a new institutionalist lens can be a step towards addressing this glaring gap. By no means all theoretical work should be restricted to this approach; it goes without saying that other perspectives, those derived from the study of public administration for instance,[2] can also offer very valuable insights. Nonetheless, it appears clear that the flexible and comprehensive analytical toolkit that the different traditions of the New Institutionalism school (Sociological, Rational Choice and Historical) bring to the table can be enormously useful when thinking about a long list of relevant research questions.

Explaining the Development of EU Counter-terrorism

More specifically, there is a particular line of enquiry for which these approaches are especially well-suited: explaining the formation and development of policy spaces. That is to say: Why does what we describe as 'EU counter-terrorism policy' exist at all? and How did it come to be? These are not negligible questions because there are significant factors that would militate in principle against EU involvement in this domain. After all, counter-terrorism is an extremely sensitive element in a state's national security. One can expect the perennial problem of the lack trust between national security agencies to act as a barrier for meaningful cooperation at the European level. It unquestionably did before 9/11, where the EU was no more than an irrelevance in the field of counter-terrorism.

Certainly, to bring 27 member states to work together in fighting terrorism has not been an easy task. In fact the evolution of EU's C-T response has been anything but straight-forward. We could actually better describe it as frantic policy-making followed by periods of slow-down and stability once public pressure dissipates. In other words, EU counter-terrorism has developed through 'starts and fits'.

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Here, a number of institutionalist concepts –especially those developed under the Historical strand- can greatly help us to dissect and scrutinise the key dynamics. Under this perspective, the development of European cooperation in counter-terrorism can be seen as a policy and organisational reaction to the shocks of New York, Madrid and London. Effectively, we can describe these events as external crisis, episodic and dramatic changes that *punctuated* a period of existing institutional *equilibrium* and continuity.[3] Using Collier and Collier's definition[4], they can be regarded as *critical junctures* generating new paths of institutional development –*branching points*– that pushed further the ingraining and embedding of this field in European policy-making.

Initially, the tremors from New York were acutely noted at the other side of the Atlantic. Faced with a transnational threat, and in a context where freedom of movement across Europe and the globalisation of communications have made national boundaries meaningless, there was little sense for member states to regress into national responses. In parallel the EU, with its broad policy scope and capacity for legally-binding action, had a comparative advantage over other international actors as a potential launching pad for a pan-European response.

Using Kingdome's conceptualisation, we can therefore make the argument that 9/11 opened a *window of opportunity*[5] at the EU level, where a prevalent sense of urgency led national decision-makers to finally adopt a record number of internal security policies that had remained stuck in the policy pipeline for months. In fact, the overwhelming majority of these measures had been already agreed at the 1999 European Council at Tampere. This entails the notion that the EU's reaction did not come from careful study of the threat and its policy challenges but through a reactive borrowing from the Tampere 'laundry list'. In institutionalist terms, the EU policy response was *dependent* on the *path* set by Tampere[6] and a *garbage can* approach was followed, where European decision-makers scrambled for pre-existing recipes to address a seemingly new threat.[7]

In reality it was the Madrid bombings the event that transformed EU counter-terrorism into an autonomous and distinctive policy domain. A Counter-Terror Action Plan is revamped, expanded and prioritised, explicitly tailored measures are proposed, strategic guidelines devised, a counter-terror coordinator (CTC) and intelligence-analysis cell established and the monitoring of implementation reinforced. So, post-Madrid, *institutional bricolage* is followed by *layering*; two institutionalist notions that help us to define a shift from the granting of counter-terror competencies and resources to pre-existing bodies after 9/11 (i.e. Eurojust, Europol) to the establishment of new structures on the top of the existing institutional settings (Sitcen, the EU CTC). Moreover, whereas political initiative remains on the hands of those countries most concerned by the threat, it is after Madrid when the Commission embraces its role as a *policy entrepreneur*, as an active promoter of counter-terror policies. London did later build on the post-Madrid developments, with an additional policy drive, an attempt to streamline efforts with a general Strategy and the addition of a preventive dimension that highlighted the importance of anti-radicalisation efforts.

This neat picture of change and transformation may leave the false impression that the Union has followed a linear and controlled process of policy and organisational development. Yet nothing could be further from the truth. The institutionalisation of EU counter-terrorism has been reactive and disjointed, the frantic drive ensuing the attacks often fading as soon as public pressure and political will ebbed. Slow-downs followed the New York and London punctuating events as the original efforts could not be sustained for long. Taken together, a periodic process of acceleration-inertia is pervasive in the development of this field.

All things considered, when assessing the end result of this set of processes, we can apply the criteria proposed by Stone Sweet, Sandholtz and Fligstein[8] to reach the conclusion that EU C-T is now a fully materialised policy space. Close examination shows formal procedures governing the interactions in the arena, mechanisms in place to coordinate developments within the counter-terrorist policy space and with adjoining areas at the national and EU level and a growing coordination reflex in a number of sectors. A system of rules has been established where none existed before and a site of governance has emerged whose procedures are periodically adapted as they influence national activity.

Conclusion

The analysis above is, necessarily, a very concise overview of an argument developed in a larger study[9] and only

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an indication of how these concepts can be applied in empirically-grounded enquiries. Despite being just an snapshot, it can hopefully reinforce the point that EU counter-terrorism can offer a rich testing ground for theoretical frameworks developed within the discipline of Politics, and not only for those derived from the fields of International Relations or European Studies alone.

Because the domain of EU counter-terrorism straddles a large number of policy dossiers (each with their own issues and idiosyncrasies), involves a large constellation of actors, includes hierarchical and networked forms of governance and its outputs can take many forms (*inter alia* legal harmonisation, sharing of best practices, adoption of strategic guidelines and operational cooperation), it remains a challenging and complex subject to study. In turn, these very same features make it also a fertile area that offers a wealth of options to generate models, transfer frameworks and explore new theoretical ideas. It seems evident, in sum, that we should embrace these opportunities to think about EU counter-terrorism in a more structured manner that can make good use of the common language that theorisation provides.

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[1] For an overview of the literature see: Argomaniz, J. Bures, O. and Kaunert, C. (forthcoming) 'Introduction' in A Decade of EU Counter-terrorism and Intelligence: A Critical Assessment (*Intelligence and National Security*, special issue).

[2] Bossong, R. (2013) 'Public good theory and the 'added value' of the EU's anti-terrorism policy', *European Security*, 22:2, pp. 165-184.

[3] Krasner, S.D. (1984) 'Approaches to the State. Alternative Conceptions and Historical Dynamics', *Comparative Politics*, 16.

[4] 'A period of significant change, which typically occurs in distinct ways in different countries (or in other units of analysis) and which is hypothesised to produce distinct legacies'. Collier, R.B. and Collier, D. (1991) *Shaping the political arena: critical junctures, the labor movement and regime dynamics in Latin America* (Princeton: Princeton University Press), p. 29.

[5] Kingdon, J.W. (1995) *Agendas, Alternatives, and Public Policies* (New York: Longman)

[6] Pierson, P. (1996) 'The Path to European Integration. A Historical Institutional Analysis', *Comparative Political Studies*, 29:2, pp. 123-163.

[7] March, J.G. and Olsen, J.P. (1986) 'Garbage Can Models of Decision Making in Organizations', in J. G. March and R. Weissinger-Baylon (eds.) *Ambiguity and Command. Organizational Perspectives on Military Decision Making* (Marshfield, M.A.: Pitman).

[8] Stone Sweet, A., Sandholtz, W. and Fligstein, N. (2001) 'The Institutionalization of European Space', in A. Stone Sweet, W. Sandholtz and N. Fligstein (eds.) *The Institutionalization of Europe* (Oxford: Oxford University Press).

[9] Argomaniz J. (2009) 'Post-9/11 institutionalisation of European Union Counter-terrorism: Emergence, Acceleration and Inertia', *European Security*, 18: 2, pp. 151 - 172.

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