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OVERCOMING TECHNOLOGY'S MYTHS – A REVIEW OF LAW AND TECHNOLOGY: A METHODOICAL APPROACH

by

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Calo R. (2025) Law and Technology: A Methodical Approach. Oxford University Press, 160 p.

1. INTRODUCTION

Legal scholarship—especially within modern, results-oriented academia¹—is currently facing accusations of hovering between moral philosophy and actual science.² Legal scholars routinely operate on moral presumptions invoked in the letter of the law, drawing from them conclusions applicable to actual reality. The traditional aim of legal scholarship is to derive norms from the law on paper, interpret them, systematise them, and assess their functionality in light of the current state of affairs. In doing so, legal scholars usually merely touch upon the issue of methodology, or do not invoke it at all.³

The situation has slightly changed for legal scholars examining the relationship between law and technology. This branch of legal scholarship is still considered novel and still organising itself⁴(also in the scope of methodology) and at the same time as such open to approaches outside traditional doctrinal research.

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¹ Duncan, N. J. and Hutchinson, T. (2012). *Defining And Describing What We Do: Doctrinal Legal Research*. Deakin Law Review, 17(1), pp. 86, 90-91.

² Calo R. (2025) *Law and Technology: A Methodical Approach*. Oxford University Press, p. 8.

³ Calo R. (2025) *op. cit.* p. 9.

⁴ Calo R. (2025) *op. cit.* p. 4.

However, the novelty of this branch may be debatable, given that technology has been a societal phenomenon for over a century or even more⁵, and the field of law and technology is already more than two decades old. This issue and many more are discussed by Ryan Calo, a professor of law at the University of Washington and author of the 2025 book “Law and Technology: A Methodical Approach” by Oxford University Press, which is being reviewed in this paper.

2. STRUCTURE AND KEY AREAS

In the introduction, Calo discusses⁶ different approaches present in the literature—starting with the disruption approach, which sees law as aiming to restore ex-ante the status quo (including damaged societal values). He also mentions⁷ minority approach which aims to assess technology through previous stages of development to predict future impact.

Then, in the first, longest chapter, entitled “Technology as a social fact”, the author presents⁸ several myths around technology, including characteristics of technology as being inevitable, and difficult or undesirable to regulate, as it would kill progress. Then Calo aims to define what technology actually is.⁹ In addition the author recalls¹⁰ a tendency of legal scholars to fixate on the particular instance of given technology, not on a bundle of technological affordances¹¹ that constitute the system. Scholars would rather analyse drones instead of the development of digital and kinetic technologies and their legal dimensions. As Calo points out¹² existing legislation aims at specific technology, not a broader context or underlying layers of concern posed by the type of given innovation (for example, laws focus on delivery robots or drones, not on the issues related to presence of unmanned vehicles conducting constant surveillance of the surroundings, including private spaces due to its core need of knowledge of the environment in the process of movement).

Another mistake made by scholars is to assume that technology will shape behaviours and society in a single, inevitable way. The author additionally

⁵ Calo R. (2025) *op. cit.* pp. 52-53.

⁶ Calo R. (2025) *op. cit.* p. 19.

⁷ Calo R. (2025) *op. cit.* p. 12.

⁸ Calo R. (2025) *op. cit.* p. 21.

⁹ Calo R. (2025) *op. cit.* p. 24.

¹⁰ Calo R. (2025) *op. cit.* p. 27.

¹¹ To better illustrate this term, it is helpful to consider the examples provided by the author. For instance, Calo describes the ability to act at a distance or speak with anonymity as affordances of technology. See Calo R. (2025) *op. cit.* p. 31.

¹² Calo R. (2025) *op. cit.* p. 26.

highlights¹³ that an important factor is being overlooked, namely the hidden intentions or interests of the creators of a given technology in relation to their responsibility for the technology's emerging behaviours.

The presumption of perceived ungovernability comes up several times, "fetishism" of constant innovation and positioning technology as the sole force bettering or securing several social values, from health to security. Calo furthermore points out¹⁴ so-called technological exceptionalism, as a perceived difference of technology from other social phenomena.

In the second chapter, the author outlines¹⁵ the differences between STS and legal scholarship. STS, which goes by several names, such as "science and technology studies" or "science, technology and society studies" is a science focused on how science and technology are developed, by whom and to what effect on society. It perceives technology as a social fact.

The law instead is focused around normativity and pragmatism. The traditional aim of legal scholarship is to identify a problem and provide a solution, thus, as the author notes, many are starting to see law as a social phenomenon (legal realism) and do not hesitate to use methods typical to social sciences, as qualitative or quantitative.

As the author invokes,¹⁶ the STS may give a legal scholarship a broader, more nuanced understanding of the subject matter of the influence of technology on societal experience. As he additionally mentions,¹⁷ the use of STS helped him to develop his understanding of technology as a contingent bundle of affordances, rather than a stable construct.

Chapter 3 presents the proposed, structured (step by step) methodology of analysing relation between law and technology.

The first step is¹⁸ to select and define technology and provide the reader with an explanation of why that specific technology was chosen, far beyond simply invoking the importance of the technology or its novelty.

The author recommends,¹⁹ *inter alia*, justifying whether the technology differs from previous technologies. The next step of the methodology is to analyse the detailed scope of the inquiry,²⁰ whether the inquiry focuses on technology in general or in its specific instances. After that, the prospective scholar should analyse what exactly the given technology

¹³ Calo R. (2025) *op. cit.* p. 21.

¹⁴ Calo R. (2025) *op. cit.* p. 47.

¹⁵ Calo R. (2025) *op. cit.* p. 53.

¹⁶ *Ibid.*

¹⁷ Calo R. (2025) *op. cit.* p. 79.

¹⁸ Calo R. (2025) *op. cit.* p. 90.

¹⁹ Calo R. (2025) *op. cit.* p. 94.

²⁰ Calo R. (2025) *op. cit.* p. 93.

changes in human capabilities, what avenues of behaviour or thought technology opens, changes or forecloses.²¹ Then the analyst should name stakeholders²² and judge the possible influence in their reality, through the lenses of the available method, including, for example, the paradigm of value sensitive design or responsible innovation.

Subsequently, the scholar should point out what exactly innovation changes,²³ including not only visible, but also hidden characteristics (or in other words, intended or unintended), and envision societal change over time. The part of legal analysis shall include²⁴ naming the normative baseline of the assessment, including the criteria of assessment, with emphasis given to the goal aimed by the author in the work.

Analysts should also consider under which area of law the technology will be scrutinised and why this specific area has been chosen, and name the project type as well.²⁵ The selection of types starts with archetypal legal scholarship pathways (like inter alia doctrinal recasting, comparative or theoretical, historical, critical, institutional assessment).

As the author argues,²⁶ there are also at least four specific directions of assessment of technology projects through the lenses of law, which include the disruption approach, so measuring change (in a broader meaning) caused by the technology and proposed changes to the law and institutions to address this change. The other ones are Governance or Tech Assessment, in which one assesses costs and benefits of the technology and propose law and adequate policy frameworks to channel technology in the desired direction. There are also the internal and critical projects where scholars reflect on the nature of technology in relation to law or empirical research, in this case scientist studies sociological contexts of technology, by using qualitative, quantitative or mixed research methods.

At the end, the scholar shall propose²⁷ legal intervention to address mapped goals and concerns, and beforehand map the space of relevant solutions.

The fourth chapter demonstrates²⁸ the practical application of the proposed methodology through a series of examples. The author uses three specific examples (case studies), to illustrate his methodology: assessment of

²¹ Calo R. (2025) *op. cit.* p. 95.

²² Calo R. (2025) *op. cit.* p. 96.

²³ Calo R. (2025) *op. cit.* p. 98.

²⁴ Calo R. (2025) *op. cit.* p. 111.

²⁵ Calo R. (2025) *op. cit.* p. 105.

²⁶ Calo R. (2025) *op. cit.* p. 107.

²⁷ Calo R. (2025) *op. cit.* pp. 16, 112.

²⁸ Calo R. (2025) *op. cit.* pp. 122-134.

augmented reality, legal consequences of “hacking” machine learning (with distinction to the intent), cochlear implants and their legal (including human rights) implications.

From the beginning to end of the book, societal assumptions about technology come to light, and the author carefully curates his narrative around them.

As Calo points out,²⁹ the trope of fast-moving technology, too fast for any accurate regulation, is governing how the relationship between law and technology is being viewed by many. The author recalls³⁰ a specific “Catch-22” (known as Collingridge’s dilemma³¹) that policymakers face: they hesitate to intervene too early due to the inability to predict all the social consequences, but this leads to an inability to regulate later on, as the public perception of the technology has already been merged with the technology. However, as the author argues,³² technology is not distinct from any other social fact successfully regulated by law.

Moreover, the book is structured around several key terms. One of them is affordance, understood in the technological contexts as a capacity of technology to reshape human experience or environment by altering affordances.

A recurring theme is the reference to the “Law of the horse”³³, which argues that the scope of any technology is already covered by many existing areas of law and creating a separate technology law is akin to introducing a “law of the horse” - and is similarly unnecessary.

Each chapter concludes with a list of references and a separate section of recommended readings.

²⁹ Calo R. (2025) *op. cit.* pp. 5-6.

³⁰ Ibid.

³¹ Collingridge D. (1980) *The Social Control Of Technology*. Frances Pinter, pp. 13-21.

³² Calo R. (2025) *op. cit.* p. 47.

³³ Easterbrook F. H. (1996) *Cyberspace and the Law of the Horse*. University of Chicago Legal Forum 207.

3. ASSESSMENT OF THE CONTENT

Primarily, it is worth noting that Ryan Calo is an excellent storyteller, and each passage is packed with a high number of real-world examples, and those also of historic nature. The book is very recent, having been published in 2025. The content is – despite its academic nature – easy to read, regardless of the level of previous expertise in the subject. At the same time, the book relies heavily on literature, including the classic one. References to, *inter alia*, Lessig's canonical "Code is law"³⁴ are recurrent. The author's thoughts are not merely a recounting of what has gone before, but lead him to his intended conclusions, namely the formulation of a coherent methodology for the field in question. The author does not claim to have invented the methodology from scratch, as he points out, the 'disruption approach' to technology is the most prevalent among scholars.³⁵ The book's role is primarily to organise and systematise the issues previously addressed in the literature, it does not propose a revolutionary method, nor does it aspire to do so.

Calo consistently argues³⁶ that meaningful research in law and technology requires interdisciplinary collaboration, emphasising that no single discipline can adequately address complex societal questions and legal scholars should in many instances take a lead of such interdisciplinary teams.³⁷

The book has its limitations because, being rooted in a US context, it draws on typically US examples; however, this does not prevent the creation of a universal model which, as the author indicates, is open to modification. Furthermore, the author notes the direction in which European regulation (AI Act³⁸, DSA³⁹)⁴⁰ is moving in terms of regulatory models for technology law, but does not assess or evaluate it. It is worth to notice, Calo's methodology may not be fully applicable to the EU legislation without certain adjustments. A clear example of this split is existence in same areas of law of highly codified, formal principles such as the "safe harbour"⁴¹ rules under the DSA,

³⁴ Lessig L. (1999) *Code And Other Laws Of Cyberspace*. Basic Books.

³⁵ Calo R. (2025) *op. cit.* p. 133.

³⁶ Calo R. (2025) *op. cit.* p. 139.

³⁷ Calo R. (2025) *op. cit.* pp. 110-111.

³⁸ Regulation (EU) 2024/1689 Of The European Parliament And Of The Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act or AI Act), Official Journal of the European Union 2024/1689 12.7.2024

³⁹ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act or DSA), Official Journal of the European Union, L 277, 27.12.2022,

⁴⁰ Calo R. (2025) *op. cit.* pp. 115, 141.

⁴¹ Article 6 of Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act).

which strictly limit the liability of intermediaries for the content transmitted or stored by their means. Such precise statutory limitations can preclude full application of Calo's methodology, as they stop a prospective analyst from fully evaluating a technology's affordances and its varying impacts on stakeholders, as the predetermined formal rule already dictates the legal outcome and limits the scope of inquiry.

4. CONCLUSION

Ryan Calo's book is highly recommended for both students and experienced legal practitioners, including academics, primarily with a view to standardising or refreshing the methodological framework employed in everyday work. The author proposes a clear step-by-step process for assessing technology through a legal lens. It will be useful both to those who need an initial introduction to a standardised approach to constructing legal arguments, and as a reminder to experienced researchers of the need to structure their analysis so that the audience (often without a legal background, e.g. in the case of policymakers) is aware of the basis and sources of the conclusions drawn, as well as their limitations. Perhaps some readers from the legal profession will also respond positively to the author's call to engage more boldly in multidisciplinary projects, drawing on other fields whilst also contributing their own. As the author notes, lawyers are predestined to play a leading role in such teams. By heavily referencing sociological scholarship (specifically STS methods,⁴² like case study⁴³ or actor network theory⁴⁴ which recognizes the agency embedded in artifacts), the author does not necessarily help the study of law escape the dilemma of being overly rooted in moral criteria. However, by systematising the methodology of these analyses, he makes it far easier to position law as a rigorous discipline that can be framed within a solid methodological structure.

⁴² Calo R. (2025) *op. cit.* p. 53.

⁴³ Calo R. (2025) *op. cit.* p. 56.

⁴⁴ Calo R. (2025) *op. cit.* p. 58.

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