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Beyond the vigilant state: globalisation and intelligence

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Abstract. The world of intelligence has grown exponentially over the last decade. This article suggests that prevailing explanation of this expansion – the spectre of 'new terrorism' – reflects serious misunderstandings. Much of the emergency legislation which has extended the power of the state so remarkably was already sitting in the pending trays of officials in the late 1990s. Instead, the rise of both the 'new terrorism' and its supposed nemesis – the secret state – both owe more to long-term structural factors. Globalisation has accelerated a wide range of sub-military transnational threats, of which the 'new terrorism' is but one example. Meanwhile the long-promised engines of global governance are nowhere in sight. In their absence, the underside of a globalising world is increasingly policed by 'vigilant states' that resort to a mixture of military power and intelligence power in an attempt to address these problems. Yet the intelligence services cannot meet the improbable demands for omniscience made by governments, nor can they square their new enforcer role with vocal demands by global civil society for improved ethical practice.

Introduction: the fall and rise of secret service

Some secret services were almost extinguished at the end of the Cold War. In the early 1990s they endured swingeing cuts and US senators even spoke of abolishing the CIA. Now the CIA enjoys resources that have expanded beyond its wildest expectations. In 2009, the US intelligence budget was approximately twice its Cold War level, at a dizzy $48 billion per annum. Similar narratives abound in other Western countries. The Dutch foreign intelligence service was actually abolished in the early 1990s and then hurriedly re-established with improved funding. The UK Security Service, known colloquially as MI5 and based at Thames House, found itself all but redundant in the mid-1990s. It is now scaled to double in size by 2010 and more than half its staff have been with the agency less than two years. Despite this unprecedented growth, few intelligence service chiefs are optimistic about the future. Meanwhile the 'diet and binge' approach that states have taken to their intelligence and security services tells us much about the paradoxical impact of globalisation upon the agencies.

Recent academic writing on intelligence has been somewhat myopic. The last five years has witnessed an expanding literature on current intelligence agencies, security services and special forces. Almost without exception, intelligence has been

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viewed through the interpretative prism of 'The War on Terror'. There have been many studies on the intelligence background to the events of 9/11, on the invasion of Afghanistan, on Guantanamo and the hunt for bin Laden. There have been innumerable essays that seek to analyse the Iraqi WMD fiasco. We are now confronted with a further wave of books about the more recent attacks in Europe, including the Madrid bombings in 2004 and the 7/7 bombings in London. Yet there has been little effort to connect intelligence with mainstream debates within international relations.[1]

Defining the spirit of the age is a notoriously tricky business. Despite the anxious rhetoric of political leaders, the idea that we inhabit an era defined by 'new terrorism' is somewhat questionable. We live primarily in an era of globalisation and since the end of the Cold War the complex debate over the nature of the changes associated with globalisation, their texture and meaning has formed the dominant theme in international relations. This is not only reflected in academic discourse but also wider public understanding. The more influential popular books on international affairs over the last five years have focussed not on terrorism, but on the impact of globalisation and related issues of global justice.[2] Moreover, the most problematic issues confronting us over the next ten years are also associated with 'global uncertainty', including third world debt, financial instability, climate change and pandemics together with a range of networked threats involving diverse illegitimate actors.[3] The current economic downturn has also led to a greater emphasis on intelligence to defend economic security.[4] However, we have seen few attempts to consider the connections between the intelligence services and globalisation.[5]

We might think about the impact of globalisation upon intelligence in at least three ways. Firstly, in terms of targets, globalisation has created a borderless world in which states move clumsily but where their many illicit opponents move elegantly. Globalisation delivered improved levels of trade and, until recently, fabulous new wealth. But as Moises Naim has argued, it is unevenly distributed and also offers opportunities for new criminal activity and political violence on a considerable scale. Naim suggests that illicit activity is not just about organised crime, but also about the parallel effects of money laundering, corruption, weapons proliferation and the rise of kleptocractic regimes – the 'Five Wars of Globalisation

[1] On 9/11, see for example, R. A. Posner, *Preventing Surprise Attacks; Intelligence Reform in the wake of 9/11* (New York: Rowman and Littlefield, 2005); B. Gertz, *Breakdown: How America's Intelligence Failures Led to September 11* (New York: Regnery 2002); L. Wright, *The Looming Tower: Al-Qaeda and the Road to 9/11* (New York: Vintage Books, 2007); A. Zegart, *Spying Blind: The CIA, the FBI and the Origins of 9/11* (Princeton: Princeton University Press, 2007).

[2] Of many populist discussions we might mention: J. Stiglitz, *Globalization and its Discontents* (New York: Norton, 2002) and M. Wolf, *Why Globalization Works* (New Haven: Yale University Press, 2004); T. Friedman, *The World is Flat: A Brief History of the Twenty-First Century* (New York: Farrar, Giraux and Strauss, 2005).

[3] A. Cronin, 'Behind the Curve: Globalization and International Terrorism', *International Security*, 27: 3 (2002/3), pp. 30–58; A. Guelke, *Terrorism and Global Disorder Political Violence in the Contemporary World* (London: IB Tauris, 2006); T. Barkawi, *Globalization and War* (Lanham: Rowman and Littlefield, 2006).

[4] 'Pentagon, bankers prepare for economic warfare', *Foreign Policy*, 9 April 2009.

[5] However, see S. D. Gibson, 'In the Eye of the Perfect Storm: Re-imagining, Reforming and Refocusing Intelligence for Risk, Globalisation and Changing Societal Expectation', *Risk Management*, 7:1 (2005) pp. 23–41; R. J. Aldrich, 'Setting priorities in a World of Changing Threats', in S. Tsang, (ed.), *Intelligence and Human Rights in the Era of Global Terrorism* (New York: Praeger, 2006), pp. 158–71.

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that we are losing'. While international crime is nothing new, he suggests that we are now seeing novel, adaptive and undifferentiated structures that are highly decentralised, horizontal, and fluid. They specialise in cross border movement and are also very proficient in the use of modern technologies. In short, they are the miscreants of globalisation.[6]

James N. Rosenau, in an essay on Ian Fleming's iconic creation 'James Bond', has commented on the curious way that life has come to resemble art. The infamous Bond villains – Dr No, Goldfinger and Blofeld – have always been post-Cold War figures. They are not far from the real enemies of the last two decades – part master criminal – part arms smuggler – part terrorist – part warlord. They are often endangering not only the security of a single country, but the safety of the whole world. Although no real-life equivalent yet boasts a private monorail, remarkably, drug cartels in Columbia have begun to use their own submarines to move cocaine to the United States. Like our modern enemies, Bond villains utilise the gaps between sovereign states and thrive on secrecy. In the 2008 film, 'The Quantum of Solace', counter-terrorism was already yesterday's business and instead Bond looked forward to the next decade where the enemies exploit climate change and environmental hazard.[7]

In reality, the shift towards transnational targets has presented intelligence services with major problems precisely because these opponents live in the seams of national jurisdictions. Traditionally, services have co-operated hesitantly, sharing intelligence mostly with preferred partners on a bilateral basis. Intelligence services have now been forced to share more widely, with exotic partners and with private agencies in an effort to keep up with their elusive opponents. Practitioners often speak of the shift from 'need to know' to 'need to share' but they rarely elaborate on the degree of discomfiture that this has involved for services which are fundamentally Westphalian in their outlook. In 2005, one recently retired CIA officer with some twenty years experience remarked acerbically that 'there are no "friendly" liaison services, not even among those allies who are historically, philosophically, and economically closest to us [. . .] they are not on our side: they are on their own side'.[8]

A second impact of globalisation has been to re-shape the role of intelligence services making them more action-orientated. Economic globalisation is well advanced, but the engines of global governance which were supposed to help to police it have not arisen naturally and, insofar as they exist, they have proved to be notably weak. By the late 1990s, national governments had to place their intelligence and security services in the front line against a range of elusive but troublesome opponents. The new targets that secret services are confronting are more ruthless and violent than those we encountered during the Cold War. Taken together with the kinetic business of counter-terrorism, the result has been that the secret services are doing less analysis and estimating and more 'fixing', enforcing and disrupting. Western governments have moved their intelligence services away

[6] M. Naim, 'The Five Wars of Globalization', *Foreign Policy* (January–February 2003), pp. 29–37; M. Naim, *Illicit: How Smugglers, Traffickers and Copycats are Highjacking the Global Economy* (London: William Heinemann, 2005).
[7] D. C. Earnest and J. N. Rosenau, 'The Spy Who Loved Globalization', *Foreign Policy*, 120 (2000) pp. 88–91.
[8] G. Jones, 'It's a Cultural Thing: Thoughts on a Troubled CIA', *Orbis*, 50:1 (2006), pp. 25–41.

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from pure intelligence towards the kind of intervention that looks more like covert action. Some of this is being franchised out to the new private military companies (PMCs) and free-lance secret services.

Thirdly, although globalisation has failed to produce effective global governance, it has spawned a vast network of global civil society and human rights campaigners. In their wake they have brought high expectations for ethical foreign policy, regulation, transparency and accountability. One result has been that the European intelligence and security services – including those in the UK – went through a regulatory revolution in the 1990s in which the European Convention on Human Rights was written into their core guidance. Everywhere, secret services are being monitored and examined, if not always called to account. Intelligence services used to operate in the shadows, but they now work under the spotlight of a globalised media that is no longer much troubled by rules of state secrecy. Increasingly, accountability now seems to flow from a globalised network of activists and journalists, not from parliamentary oversight committees. In part this reflects what some see as a further impact of globalisation, namely the corrosion of state secrecy.[9]

These contradictory developments point the way to an emerging crisis in the realm of secret service. In spite of their recent expansion, the intelligence and security services do not have the capacity to deal with all the ills of globalisation that governments are asking them to address. Indeed, while they are surged against the 'new terrorism' there is little capacity left for them to address other important issues. In short, it is a great time to be a drug dealer or a white collar criminal. More importantly, now that Western secret services have been reinvented as the 'toilet cleaners of globalization' they cannot be, at one and same time, tough enough to deal effectively with their ruthless new opponents, or soft enough to satisfy human rights watchers. While governments and ministers acquire extraordinary new powers, the intelligence and security services are taking much of the blame for the erosion of civil liberties at home and human rights overseas.

The interconnections of intelligence and globalisation are especially problematic because of the historic close associations of intelligence services, security services and what might be termed 'high policing' with state sovereignty. Mathieu Deflem, in a strongly Weberian analysis, has argued that the degree to which such security institutions acquire formal bureaucratic autonomy is the key determinant for international co-operation. While professional cultures of specialisation in this area might be thought to drive co-operation across international boundaries, in fact the close association of intelligence with national jurisdiction and 'ownership' of intelligence ensures the persistence of nationality. Accordingly, while the perceived rise in international crime and terrorism points towards co-operation, the partial retreat of policy-makers back towards robust nation states over the last decade often makes this more difficult.[10] Intelligence services are not themselves globalising particularly fast. While there is more shared training and methodology, historically security agencies have tended to be creatures of the state and intelligence sharing

[9] R. Dover & M. Goodman (eds), *Spinning Intelligence: British and American Intelligence and the Media* (New York: Columbia University Press, 2009), pp. 4–13.

[10] M. Deflem, *Policing World Society: Historical Foundations of International Police Cooperation* (Oxford: Oxford University Press, 2002), pp. 32, 219.

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has rarely kept pace with their fleeting targets. Accordingly, while international intelligence co-operation has become sufficiently developed to pose problems for oversight, it remains too hesitant to address fluid transnational opponents effectively.[11]

Policy-makers and intelligence chiefs have failed to think through the profound consequences of globalisation for intelligence and security agencies. During the 1990s, many intelligence managers tended to read Fukuyama rather than Huntingdon or Kaplan, and so were beset by moral panic in the face of predictions about the 'end of the history'. They mostly accepted the prospect of a peaceful world in which liberal democracies would merely compete for affluence against the background of declining nation states.[12] Certainly in the early 1990s familiar enemies – both national and transnational – seemed to be melting away. Not only had the Cold War had ended, but organisations such as the IRA had moved away from armed struggle. Intelligence services were cut – but few were fundamentally re-organised. In the UK in 1993, Sir Michael Quinlan undertook a 'Review of Intelligence Requirements and Resources' and conceded that if the UK was starting from scratch it would create different sorts of agencies.[13] They resembled old and venerable family retainers, long in service, but tending towards eccentricity.[14]

One of those who were sceptical about the arrival of perpetual peace was Sir Colin McColl, Chief of the UK's Secret Intelligence Service. On 2 September 1991 he addressed new SIS recruits beginning their training course. McColl confidently assured them of plenty of 'unpredictability and instability' in the post-Cold War era.[15] And so it proved to be. By the mid-1990s, the horizon had darkened and continual civil wars in the Balkans transformed the European scene. In 1998, Tom King, chair of the UK's Intelligence and Security Committee remarked that a few years ago some had accused the agencies of simply inventing new threats 'to justify their existence'. However, the world now seemed a dangerous place and was 'much less predictable'. In a Kaplanesque moment he bemoaned the passing of the Soviet Union, asking: 'Was not the Cold War, in its awful way, a form of rigid security system that has now collapsed?'[16] In 1999, Tony Blair held a Downing Street summit that concentrated on how the intelligence agencies might address the growing threats from organised crime, narcotics, people-trafficking, arms smuggling and internet banking fraud. Intelligence spending was already on the increase and numbers of staff at SIS were going up.[17]

[11] A. Svendsen, 'The globalization of intelligence since 9/11: frameworks and operational parameters', *Cambridge Review of International Affairs*, 21:1 (2008), pp. 129–44.
[12] Francis Fukuyama was only one of many predictors; see for example the best-selling, W. B. Wriston, *The Twilight of Sovereignty: How the Information Revolution is Transforming Our World* (New York: Scribner's 1992).
[13] Government Communications Staff Federation, *Annual Report 1995*, p. 27, MSS 384/3/37, Warwick Modern Records Centre.
[14] M. Urban, *UK Eyes Alpha: The Inside Story of British Intelligence* (London: Faber & Faber, 1996), pp. 260–1.
[15] R. Tomlinson, *The Big Breach: From Top Secret to Maximum Security* (Edinburgh: Cutting Edge, 2001), pp. 46–7.
[16] Tom King, forward to *UK Intelligence and Security Committee Report*, 1997–8, Cm 4073 (London: HMSO, 1998).
[17] P. Gill, 'Some Contemporary Developments in UK Security Intelligence', *CASIS Intelligence* 36 (2000), p. 16.

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Ongoing efforts to re-think the purpose of the intelligence services under conditions of globalisation were soon occluded by the events of 9/11. Moreover, the attack on the United States were followed quickly by the invasion of Afghanistan and then the occupation of Iraq. This gave the intelligence services not one, but two, high priority tasks – firstly to focus on the 'new terrorism', a threat increasingly conflated with proliferation and second, support to major military operations. In intellectual terms this represented a disaster, allowing managers to side-step the challenge of thinking about complex networks and inter-related transnational problems. Instead, they were directed to pursue specific tactical threats and indeed specific people that were seen as the source of a new danger. It was only in 2003 that the more reflective intelligence chiefs began to warn the political leaders that the focus was perhaps too narrow, meanwhile emphasising the underlying connections between increasing terrorism and globalisation. On 11 February 2003, George Tenet, Director of Central Intelligence, advised the Senate that 'globalization – while a net plus for the global economy – is a profoundly disruptive force for governments to manage.'[18]

Intelligence in a borderless world

If information technology has been a major driver of globalisation then the internet is its leitmotif. An obvious symptom of this has been the growing complexity and volume of de-regulated financial and commercial transactions that sometimes defies regulation or taxation. Efforts by intelligence and security agencies to increase surveillance of financial transfers over the last decade have been relatively ineffective. Other expressions of state sovereignty are suffering erosion, including the privilege of secure communications. After a complex technical and legal battle in the 1990s, states are no longer the sole custodians of high-grade encryption, which is now available to private organisations and even individuals. Open source intelligence now rivals the state agencies, since vast amounts of detailed information is now freely available about countries, commercial entities and individuals via web sites or e-mail. Where this is not available from open sources it is offered for sale, often from companies run by former police and intelligence officers. In short, sophisticated technical activities in the field of information, communications and intelligence are no longer the preserve of states.

The decline of communications infrastructures dominated by the sovereign state has also made the task of intelligence collection harder. For several centuries, intelligence and security services have made use of the channels and choke points created by a Westphalian order to pursue their business. A key example is signals intelligence or 'sigint' – which has produced information on an industrial scale since World War II. The telecommunications revolution of the last twenty years has undermined the sigint agencies such as NSA and GCHQ that were once the aristocrats of the intelligence world. Public key cryptography has extended to private individuals the privilege of secret writing that for centuries was mostly

[18] Testimony by George Tenet, DCI, to Senate Select Committee on Intelligence, 'The Worldwide Threat in 2003: Evolving Dangers in a Complex World', 11 February 2003, {https://www.cia.gov/news-information/speeches-testimony/2003/dci_speech_02112003.html} accessed 22 July 2007.

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the preserve of princely 'black chambers'. Although in practice only a minority of malevolent groups resort to sophisticated packages like 'Pretty Good Privacy', a degree of immunity to interception is offered by the sheer exponential growth in global communications. The world sends some thirty-five billion emails a day and even if intelligence agencies could collect all this material they would not know what to do with it.[19] The main challenge since the 1990s has been the problem of processing new streams of data that were growing at exponential rates. Practitioners often liken this to trying to pour a glass of water with a fire-hose.

The signals intelligence agencies like GCHQ and NSA have long been involved in a cryptographic arms race with their competitors in the realm of diplomatic communications. Now they are involved in a race against publicly available technology – perhaps even against globalisation itself. Scientific advances provide a novel form of personal inter-communication such as Skype, a voice over internet protocol system, every two or three years. The internet revolution in communications is perhaps the most important example. During the 1970s, the ease with which the agencies could intercept telephone traffic carried by microwave and satellite, then analogue mobile phones, resulted in an intelligence bonanza. However, beyond 2010, telephone calls will increasingly migrate to the internet. Each telecom provider will have its own protocol, effectively providing a layer of encryption that will have to be stripped away, rendering sigint much more labour intensive and, together with the growing volume of traffic, this poses an almost insuperable problem. Agencies can, of course, search for evidence retrospectively, or target the communications of individuals who they know are of interest, but in a world of anonymous threats, agencies wish to screen the ever larger volumes of international communications traffic.

The global communications revolution has therefore done much to level the playing field between the 'vigilant states' of old and the new actors. Public discussion of mobile phone interception has recently focused on terrorism, but some of the most alarming examples come from the realm of organised crime. In 1994, security agents in Colombia entered a building owned by the Cali cocaine cartel. To their surprise, they found a computer centre, staffed around the clock by several technicians. The computer was an expensive IBM mainframe of the sort used by banks, governments and universities. The initial presumption was that it was a large accounting operation. However, once it was removed to the United States for study it proved to be something far more alarming. The cartel had constructed a database that captured the office and residential telephone numbers of the local police, American diplomats and DEA agents in Colombia. This was being cross-matched with the entire call log for the local telephone company over several years, which was purchased illegally. The computer was deploying complex data-mining software hitherto only used by intelligence service that focused on tracing those who repeatedly called specific security and intelligence personnel. The cartel was using this to hunt down informers. Colombian officials concluded that this had led to the deaths of more than twelve human sources.[20]

[19] In 2005, the United States was thought to undertaking somewhere short of a billion 'intercept events' a day across the spectrum of all communications. Private information.

[20] P. Kaihla, 'The Technology Secrets of Cocaine Inc.', *Business 2.0*, July 2000 {http://www.cocaine.org/cokecrime/index.html} accessed 2 August 2007.

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Communications intelligence also highlights one of the most intractable problems posed by globalisation – the increased need for intelligence sharing. For all the public commitment of policy-makers to greater intelligence co-operation, the vast majority of intelligence co-operation remains clumsily bilateral. Early examples of this problem occurred in the 1990s during the larger peacekeeping operations in the former Yugoslavia. Here a United Nations compound often contained numerous National Intelligence Cells all living in secure containerised accommodation, reflecting absurd local compartmentalisation.[21] This same phenomenon has been visible in Afghanistan, which has been described as a veritable 'Special Forces Olympics' with elite elements from many states. Here, intelligence support over the last five years has been lumpy due to national restrictions on the release of sigint and satellite imagery that remain heavily compartmentalised.[22]

The familiar Cold War patterns of intelligence exchange, which were framed around relative static targets and a limited range of allies, such as UKUSA, are now too rigid when applied to terrorists or criminal enterprises. Significant tensions are emerging between the broader sharing that the new global networked threats seem to require and the established intelligence culture of rigorous source protection. The problem is exacerbated by the growing need to share intelligence beyond the state agencies. In Europe, this has meant controversy over provision for international judicial bodies such as the International Criminal Tribunal for the Former Yugoslavia. More recently, with the growing privatisation of intelligence activity in the United States, it has meant European material being released to large-scale contractors such as Booz Allen.

Politicians and the press have tended to suggest that the sharing of more intelligence is a panacea. However, the problem of sharing will not be overcome easily, even if some magical answer is found to issues of national ownership and source protection. The hard truth is that many services are simply not configured to handle the increasing amounts of data that might be pooled. As Stephen Lander, former Director General of MI5, has observed, the uncritical sharing of large volumes of material can do more harm than good: 'Some states collect haystacks and keep haystacks, some services collect haystacks and keep needles, some services only collect needles'. If America's NSA shared its data with all of its domestic and overseas partners the result would simply be overload.[23]

Fixing and enforcing

The roles of the intelligence and security services have changed in other ways under the impact of globalisation. Arguably, the emphasis has shifted away from ideas and information towards action. Superficially, this reflects the simple fact that their opponents are now more ruthless and violent than those we encountered during the Cold War. More fundamentally it may be symptomatic of societies that find it increasingly difficult to tolerate risk. In retrospect, the Cold War landscape now

[21] C. Wiebes, *Intelligence and the War in Bosnia: 1992–1995* (The Hague: Lit Verlag, 2003).
[22] Private information.
[23] S. Lander, 'International intelligence cooperation: an inside perspective', *Cambridge Review of International Affairs*, 17:3 (2004), pp. 481–93.

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looks rather passive, a period when intelligence was seemingly about missile-counting or else persuading ballerinas to defect. Admittedly, the distinctions can be over-drawn. Certainly some of the human agents that the West employed in Soviet Union, Eastern Europe, China and especially North Korea came to a violent end.[24] Notwithstanding this, there was distinct shift in the nature of secret service by the late 1990s towards more kinetic activity.

On 9 December 1993, the Lord Chancellor, Lord Mackay of Clashfern observed that, in the post-Cold War era, the UK's SIS was 'not purely an information-gathering service' adding, rather delicately, that it was now also 'tasked by Government to carry out other valuable services'.[25] Even as he spoke this trend towards more disruption and enforcement was being exemplified by an accelerating anti-narcotics operations in Colombia where SIS superintended a combined operation involving customs officers and special forces. The work of the SIS station in Bogota was considerably expanded in the late 1990s and was widely regarded as undertaking notably dangerous operational activity.[26] British security experts have been involved in Colombia for many years, but it often difficult to disentangle commercial from official operations. Large British companies have hired former UK special forces to protect their activities. Since 2002, the UK has been the second largest provider of military aid and training to Colombia. This is part of a wider trend in which the UK government itself now makes extensive use of security consultants to assist in improving the performance of security forces in foreign countries.[27]

The country that has travelled furthest down the road towards a culture of enforcement has been the United States. Indeed, the pugnacious slogan that has been adopted by senior US intelligence officials like General Michael Hayden is 'find, fix and finish'. Once intelligence used to be a support activity that was largely focused on estimating intentions and capabilities, but as Hayden recently explained, this has changed. Intelligence is now inherently more operational.[28] Globalisation has delivered the kind of problems where intelligence agencies 'action' the information themselves rather than passing it to bureaucrats.[29] In this respect, intelligence services are increasingly their own customers. Rendition, for example, has been interpreted by many commentators as a programme of information extraction, but it is increasingly clear that the main purpose was degrading Al Qaeda's core structure. In other words, this was primarily a special action programme rather than an intelligence programme.[30]

[24] Agent losses are discussed in P. Maddrell, *Spying on Science: Western Intelligence in Divide Germany, 1945–60* (Cambridge: Cambridge University Press, 2006), pp. 142–7.
[25] HL Deb 528, 1–12, 9 December 1993, col.1029.
[26] A. Temple, 'The Spy Who Loved Me', *The Guardian*, 2 October 2002; David Smith, 'SAS secretly helps Bogota fight rebels', *The Independent*, 22 October 1999.
[27] D. Pallister et al, 'Secret aid poured into Colombian drug war', *The Guardian*, 9 July 2003.
[28] M. W. Hayden, Central Intelligence Agency Director, 'Intelligence in the 21st Century', Remarks at the Air Force Defense Strategy Seminar, Washington, D.C., 19 June 2007 http://www.af.mil/library/speeches/speech.asp?id=332 accessed 23 July 2007.
[29] The CIA drone operation in the Yemen against Qaed Senyan al-Harthi on 3 November 2002 is a good example see D. Johnston and D.E. Sanger, 'Yemen Killing Based on Rules Set Out By Bush,' *The New York Times*, 6 November 2002.
[30] House of Representatives (2007) 'Extraordinary Rendition in U.S. Counterterrorism Policy: The Impact on Transatlantic Relations', *Joint Hearing Before the Subcommittee on International Organizations, Human Rights, and Oversight and the Subcommittee on Europe of the Committee on*

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Since 2004, the CIA has used broad, secret authority to join with special forces to mount attacks against militants in Syria, Pakistan and elsewhere. The Presidential Order relates to twenty countries with different levels of approval applying to each state, for example operations into Pakistan require presidential approval. In 2006, a US Navy Seal team reportedly raided a compound of suspected militants in the Bajaur region of Pakistan. This was watched in real time at the CIA headquarters in Langley, since the mission was captured by the video camera of a Predator drone aircraft. The raid on Syria on 26 October 2008, by no means the first, was directed by the CIA with commandos operating in support. Although missions have also been carried out in Iran, so far they had been of an intelligence, rather than an 'action' nature.[31]

Action operations, especially the pursuit of individuals, often mean working with unsavoury services. Most Western intelligence services now have strong partnerships with 'exotics' with which they previously had less contact. This is especially true of relations with some of the internal security services of Africa and Asia who were almost unknown ten years ago. One recently retired CIA officer has observed that while the external intelligence services of most smaller states are regarded as ineffective, by contrast, the abilities of their internal services are valued because they know their own country, moreover their 'powers normally exceed anything the FBI can do'.[32] Another indicator is the expansion of shared training. Twenty years ago, courses offered to foreign intelligence officers were viewed as diplomatic gesture, rather than real training. Now the emphasis has changed with serious efforts to up-skill overseas services. A further symptom of globalisation is that training is no longer a one-way street. Countries with expertise in countering suicide bombing, for example Sri Lanka, are now the trainers, while Western states are the pupils.[33]

The growing literature on subjects such as torture and 'targeted killing' as tools of state policy is a clear barometer of how far conventions have moved.[34] The majority of academic observers have tended to offer stern warns about the corrosive nature of heavy-handed activities.[35] However, a surprising number of practitioners, policy-makers, lawyers and even some academics have penned essays asking whether current conditions do not necessitate violent behaviour. The best known example is the work of the Harvard lawyer, Alan Dershowitz, who has advocated judicially administered 'torture warrants'. Although his suggestions have been dismissed by some as absurd, in fact his comments neatly illuminate a contemporary dilemma, namely the simultaneous demand for more robust security activity and an emerging culture of greater regulation.[36]

Foreign Affairs, House of Representatives, One Hundred Tenth Congress First Session, 17 April 2007, Serial No.110–28.

[31] E. Schmitt and M. Mazzetti, 'Secret Order Lets U.S. Raid Al Qaeda in Many Countries', *New York Times*, 10 November 2008.

[32] G. Jones, 'It's a Cultural Thing', p. 28.

[33] Numerous counterterrorism officers from the UK have visited Sri Lanka and Israel in recent years to examine the phenomenon of suicide bombing.

[34] On assassination see, J. T. Richelson, 'When Kindness Fails: Assassination as a National Security Option', *International Journal of Intelligence and Counter-Intelligence*, 15:2 (2002), pp. 243–74.

[35] See for example A. Bellamy, 'No Pain, No Gain: Torture and ethics in the war on Terror', *International Affairs*, 82:1 (2006), pp. 121–48.

[36] A. M. Dershowitz, 'Want to torture? Get a warrant', *San Francisco Chronicle*, 22 Jan. 2002, A19.

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Some clandestine work is being franchised out to private security agencies that are less troubled by issues of jurisdiction. Admittedly, the primary driver here is probably simple over-stretch rather than any complex notions of globalisation. State agencies that were run down in the early 1990s do not have the capacity to address counter-terrorism, the wars in Iraq and Afghanistan, together with the 'old new threats' of the 1990s such as organised crime and now the revived issues of counter-espionage presented by Russia and China. The growth of PMCs has been widely commented on and need not be rehearsed in detail here.[37] However, the extent to which some PMCs are also to some degree private intelligence services is often overlooked. One PMC operating in Iraq, CACI Inc. came to public notice because it provided many of the interrogators and interpreters for the Abu Ghraib prison. Another company called Diligence Inc. was founded by William Webster, who previously headed both the CIA and the FBI. Its senior executive, Mike Baker, was CIA field officer for some fourteen years. One of the hallmarks of the war in Afghanistan is the frequency with which regular soldiers have remarked on their encounters with free-booting privateers on special missions.[38]

Privatisation within the UK's own intelligence community has rarely been discussed in detail. A significant part of the infrastructure of GCHQ, the UK's largest intelligence organism, is now in private hands. In part, this reflects a major change in management style and operations in the 1990s – which included 'Signals Intelligence New Systems' or SINEWS – a programme that attempted to address rapid technical change.[39] Most visibly, its new building, occupied in 2003, is leased from a consortium under a PFI contract. The entire mechanical engineering and logistics element (M Division) was privatised and its 200 staff transferred to Vosper Mantech Ltd who also serviced the NSA station at Menwith Hill. Much of GCHQ's datastream is carried by a satellite network provided by companies such as EADS Astrium and Paradigm.[40] Intelligence activity in partnership with private companies, or in co-operation with foreign partners, does not necessarily involve unsavoury activity. However, all such partner activity presents challenging problems for those tasked with oversight and accountability.

Regulation, accountability and global civil society

Perhaps the most perplexing challenge for intelligence in the era of globalisation is presented by the contradictory demands of more active operations, sometimes of a rather raw kind, set against expectations of ethical behaviour and good

[37] J. Scahill, *Blackwater: The Rise of the World's Most Powerful Mercenary Army* (New York: Nation, 2007); R. P. Young, *Licensed to Kill: Hired Guns in the War on Terror* (New York: Crown, 2006); R. Merle, 'Census Counts 100,000 Contractors in Iraq', *Washington Post*, 5 December 2006.

[38] T. Shorrock, *Spies for Hire: The Secret World of Intelligence Outsourcing* (New York: Simon & Schuster, 2008).

[39] SINEWS is referred to in NSA, 'New Enterprise Team (NETeam) Recommendations: The Director's Work Plan for Change', 1 October 1999, {http://cryptome.org/nsa-reorg-net.htm} accessed 12 June 2007.

[40] *Government Communications Headquarters (GCHQ): New Accommodation Programme*, Report by the Comptroller and Auditor General, HC 955 Session 2002–2003: 16 July 2003 {http://www.nao.org.uk/publications/nao_reports/02-03/0203955.pdf} accessed 12 July 2007. On M Division see H C Deb, 23 Jan 1997: Column 1079.

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governance that were embedded in the 1990s. The rhetoric of global humanitarianism, used freely by politicians and officials over two decades is replete with references to improved accountability, transparency and above all a culture of regulation which reflects an increased sensitivity to risk. This manifested itself most clearly in the rush to put European intelligence and security services onto a statutory basis, triggering UK legislation in 1989 and 1994. Despite initial misgivings on the part of intelligence officers, the result has been greater clarity and confidence regarding routine operations. Whereas in the past, intelligence and security services might only act if they felt they could do so discreetly, they now carry out operations because they feel they are working on a sound legal basis. This, in turn, has resulted in a higher volume of operations.

However, over time aspects of intelligence oversight have become more problematic. Traditionally, all intelligence and security services have benefited from the key distinction between domestic and foreign, or 'inside and outside'. States were able to employ this divide to resolve some of the abiding tensions between security and liberty. This was achieved by permitting greater licence to foreign intelligence services, compared to domestic security services. For example, in most of Europe, the technical agencies have enjoyed unfettered communication interception activities abroad, while requiring warrants for some kind for interception at home. However, under the pressure of current technological developments, the distinctions between domestic and international communications are eroding. Now a 'hotmail' message sent between two addresses in London may travel via the United States on its journey. Is this a domestic communication or an international one?

The recent NSA 'warrantless intercept' controversy in the United States illustrates this well. NSA, the Americans signals intelligence agency, is permitted to intercept foreign communications freely but is forbidden to eavesdrop on Americans without a warrant. However, this law was designed for the era of the telegraph and the telephone rather than the internet. Moreover, the increased mobility of US citizens means that NSA often finds itself intercepting Americans abroad unwittingly when both callers are geographically outside the United States and perhaps speaking in Spanish. All these problems are underlined by a case that was before federal judge in northern California in 2008. In a class-action suit, it was alleged that AT&T Corporation are working with the NSA to implement a vast warrantless surveillance programme that collects both domestic and foreign communications and illegally monitors the communication records of millions of Americans.[41] The obvious question is why the NSA has been doing this illegally when warrants are easily obtainable from the Foreign Intelligence Surveillance Court? The answer is probably that judicial warrants only facilitate 'retail' surveillance, when what government requires is 'wholesale' surveillance and data-mining. NSA now desires a degree of mass trawling of communications, in a forlorn attempt to catch up with a wired world in which the distinction between domestic and foreign means little.[42]

[41] Arshad Mohammed, 'Judge Declines to Dismiss Lawsuit Against AT& T', *Washington Post*, 21 July 2006.

[42] B. Schneier, 'NSA and Bush's Illegal Eavesdropping', 20 December 2005 at {http://www.schneier.com/blog/archives/2005/12/nsa_and_bushs_i.html} accessed 27 July 2007.

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Two further aspects of globalisation present particular problems for accountability. These are the increasingly exotic combinations of states involved in intelligence co-operation and the growing tendency to make use of privateers. Both phenomena can render the accountability mechanisms of national assemblies and parliaments powerless, since regulators can only inquire into activities by their own governments. Typically, rendition has involved partnerships between the United States and countries such as Egypt, Jordan and Syria. These limitations are true not only for routine standing committees, but also special commissions and courts. In Canada, the inquiry by Justice Dennis O'Connor into the Mahar Arar rendition case was able to call Canadian security personnel as witnesses, but failed to persuade any Americans – even the American ambassador in Ottawa – to appear before it. Nor was Justice O'Connor ever likely to obtain the answers he wanted from Syria or Jordan.[43]

The natural opaqueness of multinational intelligence activities has a logical remedy in the possibility of regional or international mechanisms of inquiry and oversight. In 1998, when this idea was first suggested by David Bickford CB, previously a legal adviser to both MI5 and SIS, few took the idea seriously.[44] However, since 2005 we have seen real examples of such inquiries. At the regional level there have been twin investigations into renditions and secret prisons by the Council of Europe and the European Parliament. Unusually, General Michael Hayden, Director of CIA, then briefed a number of European ambassadors at a lunch hosted as the German Embassy in Washington. He tried to argue that many reports were exaggerated and that only about 100 people have been moved through the controversial programme. His remarks, which were widely reported, were effectively a CIA response to the European inquiries – perhaps a modest 'first' in the realm of transnational oversight. More unusual still is the investigation into the assassination of the Lebanese Prime Minister, allegedly by persons close to Syrian and Lebanese intelligence services, which has been undertaken by a United Nations International Independent Investigation Commission.[45]

In reality, commissions and inquiries, even if they are international, are no longer the main avenue for intelligence accountability. Much of the information that has driven recent inquiries has not come from official testimony, but from human rights watchers, activists and journalists. Global governance may be weak, but global civil society has proved to be a surprisingly effective sentinel.[46] In June 2007, mundane open source material, accessed by journalists and researchers, led to courts in Munich identifying the names of CIA officers and issuing arrest warrants.[47] Although national governments have been keen to assert public interest immunity in these matters, in a globalising world it is increasingly hard to keep a

[43] The findings of the enquiry are at {http://www.ararcommission.ca/eng/}

[44] Memorandum by David Bickford, 'The Accountability of the Security and intelligence Services with Particular Regard to the Security Service', Appendix 2, UK Select Committee on Home Affairs, 3rd Report, *Accountability of the Security Service*, 21 June 1999 {http://www.publications.parliament.uk/pa/cm199899/cmselect/cmhaff/291/291ap03.htm}

[45] W. W. Harris, 'Crisis in the Levant: Lebanon at Risk?', *Mediterranean Quarterly*, 18:2 (2007), pp. 37–60.

[46] A. Florini, 'The end of secrecy', *Foreign Policy*, 111 (1998), pp. 50–63.

[47] J. Goetz, M. Rosenbach and H. Stark, 'Renditions Scandal: CIA Arrest Warrants Strain US-German Ties', *Der Spiegel International*, 25 June 2007.

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secret. Some of the same globalising processes that have degraded individual privacy are also eroding state secrecy.

This will be exacerbated by the growing trend towards contracting out intelligence activities. Traditionally, CIA officers who retire have, with very few exceptions, dutifully submitted their memoirs to Langley's official clearing process for sanitisation.[48] It is unlikely that those working for Blackwater and Aegis will observe the same niceties. Some have already acquired literary agents, and even now, breathless memoirs are now being typed out on dusty laptops in Baghdad and Kabul. Admittedly, it is hard to think of these world-weary warriors as active promoters of transparency. However, the reality is that we already know far more about intelligence during the last decade than we ever thought possible. Little of this information has come to us through the formal channels of oversight and enquiry. Ironically, while Western governments now display an increasing appetite for secret work, globalisation ensures that few of these matters will remain hidden for very long. Therefore, in the 21st century, one of the most likely impacts of globalisation upon intelligence will be a growing climate of 'regulation by revelation'. Whatever the future direction of the vigilant state, the intelligence services look increasingly likely to become unsecret services, and their activities are unlikely to be very far from the public gaze.[49]

[48] Most CIA memoirs are dull, often being mere travelogues. One of the few CIA memoirs to evade the clearing process was R. B. Smith, *Portrait of a Cold Warrior* (New York: Putnam, 1976).

[49] R. J. Aldrich, 'Regulation by Revelation? Intelligence, Transparency and the Media', in R. Dover and M. Goodman (eds), *Known Knowns: British and American Intelligence and the Media* (NY: Columbia University Press, 2009).

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